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Secretary of State

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ILLINOIS REGISTER

Rules of Governmental Agencies

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1990

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1989	Dec. 26, 1989	1	Jan. 5, 1990	June 26, 1990	July 3, 1990	28	July 13, 1990
Dec. 26, 1990	Jan. 2, 1990	2	Jan. 12, 1990	July 3, 1990	July 10, 1990	29	July 20, 1990
Jan. 2, 1990	Jan. 9, 1990	3	Jan. 19, 1990	July 10, 1990	July 17, 1990	30	July 27, 1990
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Feb. 13, 1990	Feb. 20, 1990	9	Mar. 2, 1990	Aug. 21, 1990	Aug. 28, 1990	36	Sept. 7, 1990
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Feb. 27, 1990	Mar. 6, 1990	11	Mar. 16, 1990	Sept. 4, 1990	Sept. 11, 1990	38	Sept. 21, 1990
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Apr. 17, 1990	Apr. 24, 1990	18	May 4, 1990	Oct. 23, 1990	Oct. 30, 1990	45	Nov. 9, 1990
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May 1, 1990	May 8, 1990	20	May 18, 1990	Nov. 5, 1990	Nov. 13, 1990	47	Nov. 26, 1990 (Mon.)
May 8, 1990	May 15, 1990	21	May 25, 1990	Nov. 13, 1990	Nov. 20, 1990	48	Nov. 30, 1990
May 15, 1990	May 22, 1990	22	June 1, 1990	Nov. 20, 1990	Nov. 27, 1990	49	Dec. 7, 1990
May 22, 1990	May 29, 1990	23	June 8, 1990	Nov. 27, 1990	Dec. 4, 1990	50	Dec. 14, 1990
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June 19, 1990	June 26, 1990	27	July 6, 1990	Dec. 24, 1990	Dec. 31, 1990	2	Jan. 11, 1991

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

NOTICE OF PROPOSED AMENDMENTS

- 9) Are there any proposed amendments pending on this Part? Yes
- | Section Numbers | Proposed Action | Illinois Register Citation |
|-----------------|-----------------|-----------------------------|
| 240.1600 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1605 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1610 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1620 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1625 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1630 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1635 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1640 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1645 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1650 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1655 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1660 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.1665 | Amendment | 11/26/90:14 Ill. Reg. 18635 |
| 240.2020 | Amendment | 11/26/90:14 Ill. Reg. 18635 |

10) Statement of Statewide Policy Objectives: N/A

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning these rules by writing to Mr. Melvin E. Koch, Policy and Rules Analyst, Illinois Department on Aging, 421 East Capitol Avenue, Springfield, Illinois 62705 within 45 days after the date of this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.02 of the Illinois Administrative Procedure Act, any small business may present their comments to Melvin E. Koch at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

In addition, the Department on Aging will hold a PUBLIC HEARING on this rulemaking:

DATE: January 8, 1991
TIME: 9:00 A.M. until 12:00 Noon
LOCATION: Room 161 (Auditorium)
Centennial Building

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Community Care Program
- 2) Code Citation: .89 Ill. Adm. Code 240
- 3) Section Numbers: Proposed Action:
- | | |
|--------------------|-------------|
| 240.1400 | New Section |
| 240.1410, 240.1420 | Amendment |
| 240.1430, 240.1440 | New Section |
| 240.1710, 240.1720 | New Section |
| 240.1960 | New Section |
- 4) Statutory Authority: Ill. Rev. Stat., Ch. 23 Sections 6104.01(4), (9), (11) and (12); 6104.02, 6104.03 and 6105.02
- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking is the product of a two year joint-process of development and negotiation between the Department on Aging and Illinois' thirteen Area Agencies on Aging.

The purpose of this rulemaking is to assure increased uniformity and consistency of case management statewide in order to improve access to and quality of home and community based services. In addition, this rulemaking is to provide Community Care Program specific requirements relative to the Case Coordination Unit (CCU) programmatic responsibilities; CCU staff positions, qualifications, responsibilities and training requirements; CCU procurement; CCU administrative compliance requirements; and, fixed rate of reimbursement for CCU services.

The requirements contained in this rulemaking are supplementary to requirements proposed as amendments to 89 Ill. Adm. Code 220 also published in this edition of the Illinois Register.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ☒ No ☐

8) Does this proposed amendment contain incorporations by reference? No

DEPARTMENT ON AGING

DEPARTMENT ON AGING

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

2nd and Edwards Streets
Springfield, Illinois

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

12) Initial Regulatory Flexibility Analysis:

PART 240

COMMUNITY CARE PROGRAM

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Maintenance of Effort
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Demonstration/Research Projects
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Reporting Changes
Voluntary Repayment

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Appeals and Fair Hearings
Representation
When the Appeal May Be Filed

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 4, 1990

B) Types of small businesses affected:

Case Coordination Units contractually providing case management and related services through the Community Care Program.

C) Reporting, bookkeeping or other procedures required for compliance:

Standardized programmatic procedures specified in 89 Ill. Adm. Code 240 and proposed as amendments to 89 Ill. Adm. Code 220.

D) Types of professional skills necessary for compliance:

Experience in health or social sciences, social work, or health service administration.

The full text of the Proposed Amendment(s) begins on the next page:

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DEPARTMENT ON AGING

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AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(1) of the Illinois Act on the Aging (Ill. Rev. Stat. 1987, ch. 23, pars. 6104.02 and 6104.01(1)).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendments at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendments at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendments at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg.

NOTICE OF PROPOSED AMENDMENTS

5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendments at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: Bold faced type denotes statutory language.

SUBPART N: CASE COORDINATION UNITS

Section 240.1400 Community Care Program Case Management

a) A designated Case Coordination Unit (CCU), as outlined in Ill. Adm. Code 220.600 et seq., shall be contracted with as a CCU by the Department for a specific geographic area by executing a contract for the provision of Community Care Program (CCP) case management services.

b) All providers of CCP case management service shall meet all standards promulgated by the Department relating to the services provided, the provider's ability to perform, the provider's history of service provision, and the best interests of the State and the CCP. All Department funded CCUs must adhere to the equal opportunity requirements of the Illinois Department of Human Rights and the contract executed between the CCU and the Department.

c) Case management services shall be purchased only from providers determined capable and competent by the Department to provide such services, as described in 89 Ill. Adm. Code 220.640.

d) CCU contracts with the Department to provide CCP case management services shall not be assigned.

e) CCUs shall not subcontract for the direct provision of CCP case management services unless prior written approval has been obtained from the Department.

f) A CCP vendor may not serve as a CCU in the same contract service area except temporarily to provide for the orderly transition of duties while the Department seeks a replacement CCU or vendor, as indicated in the

NOTICE OF PROPOSED AMENDMENTS

particular case. In no instance shall such arrangement exist for longer than a three (3) month period.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 240.1410 Case Coordination Units Administrative Minimum Standards

- a) Each Area Agency on Aging, utilizing Older Americans Act funds, will develop and designate Case Coordination Units (CCU's) within each respective planning and service area to perform duties specified in Section 230.250 (89 Ill. Adm. Code 230.250).
- b) The Department intends to contract with the CCU's for provision of activities related to the Community Care Program, as enumerated in Sections 240.260, 240.1310, and 240.1420. In the event that no CCU has been designated for coverage of an entire planning and service area, or if geographic portion(s) of a planning and service area do not have CCU coverage, or if the Department determines that contracting with the designated CCU is not in the best interest of the Community Care Program, the Department shall make provisions to ensure that the activities specified in Section 240.1420 will be carried out in all of the planning and service area.
- c) In no instance will the Department enter into a contract with a single entity for provision of CCU activities and Community Care Program vendor services during the same contract period in the same contracted geographic service area, except to ensure an orderly transition of clients.
- d) CCU's shall only be reimbursed for visits in the home or in a hospital or other institution for the purpose of determining initial or continuing eligibility for the Community Care Program and related monitoring services.
- e) Payment shall be at a negotiated rate specified in the CCU's contract with the Department.
- a) A Case Coordination Unit (CCU) must meet the Standard Contractual Requirements of Section 240.1310.
- b) A CCU shall have and demonstrate use of written policies and procedures for activities and responsibilities as specified and in accordance with 89 Ill. Adm. Code

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220.600(d).

- c) A CCU shall be open for business at least seven (7) hours each weekday (Monday through Friday) and shall have and utilize an alternative method approved by the Department, and on file at the CCU, for receiving requests from applicants/clients on any weekdays (excluding holidays) when the CCU is not open for business.
- d) A CCU shall have and observe written policies and procedures for the following:
 - 1) Personnel policies as specified in 89 Ill. Adm. Code 220.600(d)(8).
 - 2) Service activities and responsibilities as outlined in Section 240.1420.
 - 3) Documentation of participation in Department provided/approved initial and in-service training and receipt of certification, as appropriate, as required by Section 240.1440.
- e) All program records, reports, and related information and documentation, including client files, which are generated in support of the contract between the CCU and the Department shall be considered the property of the Department.
 - 1) The CCU shall submit, upon demand, or otherwise make available at the option of the Department, all such records, information and documentation to the Department/Department authorized designee.
 - 2) All such records, information and documentation shall be maintained by the CCU in accordance with provisions of 89 Ill. Adm. Code 220.600 (n).
 - 3) All records, case notes or other information maintained on persons served under the contract shall be confidential and shall be protected by the CCU from unauthorized disclosure as required by 89 Ill. Adm. Code 220.100 and Section 240.340.
- f) Each individual employed by the CCU having face-to-face contact with clients shall provide to the CCU certification of freedom from communicable disease as

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determined by an appropriately licensed medical professional within six (6) months prior to assignment of that individual on the job:

- 1) such certification shall be retained by the CCU in the personnel file of the employee;
- 2) recertification shall be required if an employee contracts a communicable disease following the initial certification.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 240.1420 Case Coordination Unit Responsibilities

Case Coordination Units (CCUs), in the performance of their Community Care Program (CCP) contract, shall have the following responsibilities:

- a) Case Coordination Units (CCUs), in the performance of their Community Care Program (CCP) contract, shall have the following responsibilities: Review of all inquiries to determine if application for CCP services is requested or is appropriate, and maintenance of inquiry logs. Evaluation of inquiries shall be accomplished and CCP applications sent as necessary within five (5) work days from the date of the inquiry or request.
 - 1) Pre-screening of all inquiries to determine if application for Community Care Program services is desired. Maintenance of the inquiry log. Evaluation of inquiries shall be accomplished within five (5) work days from the date of the inquiry.
 - 2) Distribution, interviewing and assistance in the completion of Community Care Program applications as received and as required under Sections 240.510 and 240.520 within the required time frames set forth in Section 240.510.
 - 3) Performance of CCP determinations/redeterminations of eligibility, including comprehensive assessments and development of plans of care. CCUs shall maintain liaison with the Department of Rehabilitation Services (DORS), the Department of Public Aid (DPA), physicians, hospital discharge

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personnel, and vendors for the purpose of receiving input which may be beneficial to the CCU in exercising these responsibilities. The Client Agreement Plan of Care is the responsibility of the CCU and can be revised only by the CCU.

- 4) During the initial home visit, or upon request, advise applicants/clients of all rights under the Community Care Program and furnish each applicant with a copy of the booklet, "Things You Need to Know", including a copy of the request for appeal form as promulgated by the Department and rendering assistance in filing an appeal.

- 5) Implementation of Freedom of Choice as required by Section 240.330 and transfer of the client as required by Section 240.1110 et seq.

- 6) If an applicant is found eligible:
 - A) send/hand deliver original Case Action Notice to new client.
 - B) Send/hand deliver original of Client Agreement Plan of Care, a copy of the Case Action Notice and Case Documentation for Determination of Need to the vendor on the same day as the CCU sends/hand delivers the original Case Action Notice to client as required by Section 240.910.

- 7) Send/hand deliver to Community Care Program service vendor a copy of the Case Action Notice on same day as the CCU sends/hand delivers the original Case Action Notice to the client as required by Section 240.945. The CCU shall also send/hand deliver the following documents, together with the Case Action Notice, to the vendor:
 - A) copy of the Case Documentation for Determination of Need, and
 - B) original Client Agreement Plan of Care.

- 8) Submission to DPA of all requested records for determination of and authorization of medical assistance and any other information or records for

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the Department of Public Aid to discharge its responsibilities as the Single State Agency under Title XIX of the Social Security Act.

9) If an applicant is ineligible, send notification to the applicant and provide linkage to other indicated services (e.g., Older Americans Act services).

10) If the notice of eligibility is not mailed within forty five (45) calendar days from the date on which a completed application is received by the Department or CCU, advise the applicant of his/her right to receive a penalty payment as specified in Section 240-940.

11) If provision of services is delayed beyond required time limits, inform and assist the client in the exercise of his/her right to obtain an alternative provider as specified in Section 240-270.

12) Maintenance of all client records and documentation as specified in this Part and applicable procedures, avoiding diagnostic terms in case notations unless said terms were provided by qualified professionals (e.g., physician, nurse, therapist).

13) Provide the Department with an annual audit to be completed in accordance with Generally Accepted Accounting Principles (GAAP) adopted by the Financial Accounting Standards Board (High Ridge Park, Stamford, Connecticut, June 1, 1987), which are hereby incorporated by reference. (This incorporation includes no later amendments or editions.) The audit report shall be filed at the offices of the Illinois Department on Aging, 421 East Capitol Avenue, Springfield, 62701, within six (6) months from the date of the close of the CCU's business fiscal year.

14) Maintenance of list of all clients being served within the CCU's jurisdiction.

15) Maintenance of confidentiality of all records as required by Section 240-340.

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16) Address request by a client/authorized representative relating to CCP services and respond verbally/in writing to the client/ authorized representative within fifteen (15) calendar days from the date of request and so document on the Case Record Recording Sheet.

17) All contact, verbal or written, with or on behalf of clients shall be documented on the Case Record Recording Sheet.

18) Correspondence as required in performing all specified responsibilities.

19) Initiation and follow up of appropriate case transfer actions required by Sections 240.1110 et seq.

20) Availability to receive and to respond to client/authorized representative and vendor inquiries and requests.

21) Completion and submission of Case Authorization forms to the Department, review and correction of Case Authorization forms as necessary, and assistance to vendors with billing errors/rejects related to the Case Authorization and the Vendor Request for Payment forms.

22) Attendance at hearings on all appeals in which the CCU has been made a party and testify as required. The CCU must make available the appellant's original file at the hearing.

23) Conduct nursing home prescreening in accordance with Section 240.1010.

24) Obtain any necessary consent and cooperation for release of information when required to document case record material and to take subsequent indicated action.

b) The agency shall maintain books, records, documents and other evidence of accounting procedures and practices which reflect all direct and indirect costs of any nature expended in performance of the contract.

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- 1) ~~Direct costs shall be defined as those costs that can be specifically identified with the performance of the contract objective (e.g., Case Manager salaries).~~
- 2) ~~Indirect costs shall be defined as those costs that have been incurred for administrative or support objectives and are not readily identified with a particular objective, but are nevertheless necessary to the general operation of the CCU (e.g., building maintenance, supplies, administrative salaries).~~

- 3) ~~The above records shall be subject, during normal business hours, for inspection, review, or audit by Department/Department designees.~~

~~Distribute, and assist with completion, of CCP applications as received and as required under Sections 240.510 and 240.520 within the required time frames set forth in Section 240.510.~~

- c) ~~All applicant/client records, case notes, information and documentation, including client files, maintained by the CCU and relating to persons who apply for services or are served under the contract shall be considered to be confidential and shall be protected by the CCU from unauthorized disclosure as required by Section 240.340.~~

~~Full responsibility for the performance of CCP determinations/redeterminations of eligibility, and development of a Client Agreement - Plan of Care for each CCP client. (The Client Agreement - Plan of Care can be revised only by the CCU.) CCUs should maintain liaison with the Department of Rehabilitation Services (DORS), the Department of Public Aid (DPA), physicians, hospital discharge personnel, and vendors for the purpose of receiving input which may be beneficial to the CCU in exercising these responsibilities.~~

- d) ~~All applicant/client/program records, case notes, information and documentation, including client files, relating thereto, and books, records, documents, other evidence of accounting procedures and practices maintained in the performance of the contract shall be:~~

- 1) ~~retained by the CCU for a period of five (5) years~~

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~~from the termination date of the CCU's contract with the Department;~~

- 2) ~~if any litigation, claim, or audit is started before the expiration of the five (5) year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved; and~~
- 3) ~~subject, during normal business hours, for inspection, review or audit by the Department/Department designees.~~

~~Implement Freedom of Choice as required by Section 240.330.~~

- e) ~~All applicant/client/program records, case notes, information and documentation, including client files, generated in support of the contract shall be considered property of the Department, and shall be submitted by the CCU at the request of the Department/Department designee.~~

~~Implement transfer of a client as required by Sections 240.1110 through 1180.~~

- f) ~~Send/hand deliver a Case Action Notice (CAN) to applicant/client as required by 240.910 and 240.945. Send/hand deliver to CCP service vendor, on same day as the CCU sends original CAN to client, the following:~~

- 1) ~~copy of the Case Documentation for the Determination of Need;~~
- 2) ~~copy of the CAN;~~
- 3) ~~original Client Agreement - Plan of Care.~~

- g) ~~During the initial home visit and upon subsequent request, advise applicants/clients of all rights and responsibilities under the CCP and furnish each applicant/client with a copy of those rights and responsibilities, including a copy of Things You Need to Know. Provide a copy of the Request for Appeal form as promulgated by the Department and render assistance in filing the Request for Appeal form as requested or needed.~~

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- h) Arrange for the implementation of CCP services to be provided by CCP vendor(s) in accordance with the Client Agreement - Plan of Care.
- i) Submit to DPA all requested records for DPA determination of eligibility for and/or authorization of medical assistance, and any other information or records for DPA to discharge its responsibilities as the Single State Agency under Title XIX of the Social Security Act.
- j) Send notification to the applicant as required by Section 240.910 if an applicant is determined ineligible for CCP services(s) and provide linkage to other indicated services (e. g., Older Americans Act services).
- k) Advise the applicant of his/her right to receive a penalty payment as specified in Section 240.940 if the notice of eligibility is not mailed within forty-five (45) calendar days from the date on which a completed application is received by the Department or CCU.
- l) Inform and assist the client in the exercise of his/her rights to obtain an alternative provider as specified in Section 240.270 if provision of CCP service is delayed beyond the required timeframe.
- m) Maintain a list of all CCP clients being served within the CCU's jurisdiction.
- n) Address any request by client/authorized representative/ vendor relating to CCP services and respond verbally/in writing within fifteen (15) calendar days from the date of request and so document on the Case Record Recording Sheet.
- o) Document on the Case Record Recording Sheet all contact, verbal or written, with or on behalf of clients.
- p) Complete and submit Case Authorization Forms to the Department; review and correct rejections; and provide assistance to vendors with billing errors related to the Case Authorization Form and the Vendor Request for Payment forms.
- q) Provide, in a timely manner, copies of all client documents requested by the Department for client appeals or other Departmental matters.

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- r) Attend hearings on appeals affecting clients under the CCU's jurisdiction and testify as requested. The CCU shall make available the appellant's original files at the hearing.
- s) Conduct nursing home prescreening in accordance with Section 240.1010.
- t) Conduct Department of Mental Health and Developmental Disabilities (DMHDD) OBRA-1 (Level I ID Screen).
- u) Provide the Department with an annual financial audit report completed in accordance with Generally Accepted Audit Standards and Audit Guidelines issued by the Department.
- 1) The financial audit report shall be filed within six (6) months of the close of the CCU's business fiscal year. The annual financial audit report must include, at a minimum, an income and expense statement and a balance sheet with the auditor's opinion and findings.
- 2) The annual financial audit report shall be filed with the Illinois Department on Aging, 421 East Capitol Avenue, Springfield, Illinois 62701.
- v) Maintenance of all client records and documentation as specified in this Part and applicable procedures, avoiding diagnostic terms in case notations unless such terms were provided by qualified professionals (e. g., physician, nurse, therapist).
- w) Correspondence as required in performing all specified responsibilities.
- x) Obtain any necessary consent and cooperation for release of information when required to document case record material and to take subsequent indicated action.
- y) Other activities as required by State or Federal or local rules, regulations, and ordinances as they relate to the CCP.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 240.1430 Case Management Staff Positions, Qualifications

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and Responsibilities

a) A Case Coordination Unit (CCU) shall have specified staff to carry out the following functions:

- 1) case management, and
 - 2) supervision of case managers.
- b) Case management supervisor qualifications shall be as specified in 89 Ill. Adm. Code 220.605(a)(2).
- c) Case management supervisor activities and responsibilities shall, at a minimum, include:

- 1) documented provision of training to staff on Department policies, procedures and case management techniques as required by Section 240.1440.
 - 2) consultation on Client Agreement - Plan of Care activities;
 - 3) documented quarterly review of individual case files and case manager decisions on at least a 10% sample basis for each case manager;
 - 4) documented oversight of all case manager activities and responsibilities; and
 - 5) annual written performance evaluation of each case manager for whom the supervisor carries out the above responsibilities.
- d) Case manager qualifications shall be as specified in 89 Ill. Adm. Code 220.605(a)(4).
- e) Case Manager activities and responsibilities shall, at a minimum, include:
- 1) administration of the Determination of Need;
 - 2) development of a CCP Client Agreement - Plan of Care;
 - 3) performance and/or approval of nursing home prescreening;

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4) performance of Department of Mental Health and Developmental Disabilities (DMHDD) OBRA-1 (Level I ID Screen);

- 5) authorization of CCP services; and
- 6) attendance at appeal hearings.

f) Required activities which may be performed by a case manager or other CCU staff include:

- 1) screening of inquiries;
- 2) arranging for service implementation in accordance with each specific Client Agreement - Plan of Care;
- 3) completing Case Authorization Forms;
- 4) reviewing and correcting Case Authorization Forms
- 5) assisting vendors with Vendor Request for Payment (VREP) rejects;
- 6) timely provision of documents requested by the Department for client appeals or other Departmental matters;
- 7) implementing case transfers; and
- 8) assisting with referral of applicants/clients to the Illinois Department of Public Aid for Medicaid application as requested.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 240.1440 Training Requirements For Case Management Supervisors and Case Managers

a) Case Management Supervisors

- 1) Either prior to or within forty (40) calendar days from the date of employment with the Case Coordination Unit (CCU), each case management supervisor shall successfully complete:

A) Department sponsored Community Care Program (CCP) training on the Determination of Need

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(DON), eligibility determination, care planning, nursing home prescreening, and DMHDD OBRA-1 (Level I ID Screen).

- B) Successful completion of the above training shall be established by certification.

- 2) Each case management supervisor shall meet the following in-service training requirements:

A) recertification of CCP training within sixty (60) calendar days from the sixth (6th) month anniversary of initial certification (e.g., initial training in January, recertification no later than September); and

B) annual recertification of CCP training within sixty (60) calendar days from the month anniversary of each previous recertification (e.g., recertification in September, subsequent recertification no later than November of the following year); and

C) eighteen (18) hours of documented in-service training on aging related subjects within each calendar year. For partial years of employment, training shall be prorated to equal 1.5 hours for each full month of employment. Documented participation in State, regional or national conferences on aging related subjects, in addition to the recertification required in subsection (A) above, will qualify as in-service training on an hour-for-hour basis.

b) Case Managers

- 1) Prior to performing CCP eligibility determinations and developing plans of care, each case manager shall successfully complete:

A) Department sponsored CCP training on the DON, eligibility determination, care planning, nursing home prescreening and DMHDD OBRA-1 (Level I ID Screen).

B) Successful completion of the above training

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shall be established by certification which shall expire ninety (90) days from completion of training.

- 2) Each case manager shall meet the following in-service training requirements:

A) recertification of CCP training within ninety (90) calendar days from the initial certification (e.g., initial training in January, recertification no later than September); and

B) annual recertification of CCP training within sixty (60) calendar days from the month anniversary of each previous recertification (e.g., recertification in April, subsequent recertification no later than June of the following year); and

C) eighteen (18) hours of documented in-service training on aging related subjects within each calendar year. For partial years of employment, training shall be prorated to equal 1.5 hours for each full month of employment. Documented participation in State, regional or national conferences on aging related subjects, in addition to the certification required in subsection (A) above, will qualify as in-service training on an hour-for-hour basis.

(Source: Added at 14 Ill. Reg. _____, effective _____)

SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

Section 240.1710 Procurement Cycle For Case Management Services

The Department will solicit Proposals as specified in 89 Ill. Admin. Code 220.610 through 220.645 on the same three (3) year cycle specified in 89 Ill. Admin. Code 220.615(a). When conducting the solicitation as specified in 89 Ill. Admin. Code 220.655(g), the Department shall assume all responsibilities specified for the Area Agency on Aging in 89 Ill. Admin. Code 220.610 through 220.645.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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Section 240.1720 Case Coordination Unit Compliance Review

a) Each Case Coordination Unit (CCU) under contract to the Department must comply with the Request for Proposal, Federal, State and local laws, regulations and Department rules, policies and procedures. When the CCU signs the contract, this signature shall be the CCU's certification that all applicable laws, rules and regulations will be complied with, as well as all statements included in the CCU Proposal except those contradicting applicable laws, rules and regulations.

b) The Department shall have the authority to conduct a Case Coordination Unit Compliance Review (CCUCR) of a contracted CCU agency at any time during the course of the CCU's contract period for the purpose of protecting the health, safety and welfare of Community Care Program clients.

c) The Department shall conduct a Case Coordination Unit Compliance Review (CCUCR) in accordance with procedures established in section (d) below and pursuant to 89 Ill. Adm. Code 220.660. CCUCRs shall be conducted no less frequently than one review during each 36 month period.

d) A CCU Compliance Review (CCUCR) will consist of two phases: an initial phase and a final phase.

1) In the initial phase, CCUs will be provided a copy of the CCUCR instrument prior to an on-site review.

A) A random sample of files, based on caseload size, will be selected, and

B) an on-site review performed.

2) Following the on-site review, an initial findings confirmation letter and CCUCR summary of findings will be issued to the CCU.

3) If a CCU has been found to be in compliance, the CCUCR will be concluded with the initial findings confirmation letter and the initial CCUCR report.

4) A non-compliant CCU will have sixty (60) calendar days from the date of receipt of the initial findings confirmation letter to achieve compliance.

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5) A non-compliant CCU may request technical assistance from the Department within fifteen (15) calendar days from the date of receipt of the initial findings confirmation letter.

6) Following the conclusion of the sixty (60) calendar day interval, the Department will conduct the final phase of the CCUCR on-site.

A) The previously determined non-compliance findings and files will be re-examined.

B) In addition, a sample equal to the number of previously determined non-compliant files will be reviewed, where applicable.

7) Following the completion of the final phase on-site review, the CCU will receive the final CCUCR report.

e) CCUCR Reports shall be maintained by the Department and findings shall be acted upon as specified in 89 Ill. Adm. Code 220.670.

f) The Department shall have the authority to conduct reviews/audits of a contracted CCU, other than CCUCRs, at any time during the course of the CCU's contracted period pursuant to a decision to perform such reviews/audits by the Director of the Department.

(Source: Added at 14 Ill. Reg. _____, effective _____)

SUBPART S: VENDOR RATES

Section 240.1960 Case Management Fixed Unit Reimbursement Rates

Case Coordination Units under contract with the Department shall be uniformly reimbursed for the provision of Community Care Program (CCP) case management services at the rates established by the Department. The reimbursable CCP case management service activities shall be as follows:

a) completion of each initial eligibility determination for Community Care Program services;

b) completion of each redetermination of Community Care Program eligibility not to exceed one (1) redetermination per month per client;

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- c) completion of each face-to-face prescreening of an applicant;
- d) completion of each Department of Public Aid Interagency Certification of Results-Determination of Imminent Risk form, following prescreening by hospital discharge staff;
- e) completion of each Department of Mental Health and Developmental Disabilities (DMHDD) OBRA-1 (Level I ID Screen);
- f) availability to receive client inquiries and requests, by telephone or in person, and to respond to such requests and inquiries for each active client per month.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: General Programmatic Requirements

- 2) Code Citation: 89 Ill. Adm. Code 220

- 3) Section Numbers: Proposed Action:

220.600,	220.605,	220.610	New Section
220.615,	220.620,	220.625	New Section
220.630,	220.635,	220.640	New Section
220.645,	220.650,	220.655	New Section
220.660,	220.665,	220.670	New Section

- 4) Statutory Authority:

Ill. Rev. Stat., Ch. 23 Sections
6104.01(4), (9), (11) and (12);
6104.02, 6104.03 and 6105.02

- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking is the product of a two year joint-process of development and negotiation between the Department on Aging and Illinois' thirteen Area Agencies on Aging.

The purpose of this rulemaking is to assure increased uniformity and consistency of case management statewide in order to improve access to and quality of home and community based services. In addition, this rulemaking is to provide programmatic requirements relative to the case management services provided through Older Americans Act Programs (89 Ill. Adm. Code 230) and the Community Care Program (89 Ill. Adm. Code 240). This rulemaking includes: minimum standards; staff requirements and qualifications; procurements (including the cycle established for procurement, definitions of a request for proposal, methodology for issuing the proposal and accompanying guidelines, required content of the proposal, review of submitted proposals, and evaluation of submitted proposals); designation of Case Coordination Units; methodology for protest or objection to the awarding of contracts/grants for services; procurements of a replacement provider if necessary during the contract/grant period; compliance reviews of providers; compliance requirements; and sanctions for failure of a provider to comply with the contract/grant.

The requirements contained in this rulemaking are complementary to requirements proposed as amendments to 89 Ill. Adm. Code 230 and 240, both of which are also published in this edition of the Illinois Register.

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- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No ☐
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: N/A
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning these rules by writing to Mr. Melvin E. Koch, Policy and Rules Analyst, Illinois Department on Aging, 421 East Capitol Avenue, Springfield, Illinois 62705 within 45 days after the date of this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.02 of the Illinois Administrative Procedure Act, any small business may present their comments to Melvin E. Koch at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

In addition, the Department on Aging will hold a PUBLIC HEARING on this rulemaking:

DATE: January 8, 1991
TIME: 9:00 A.M. until 12:00 Noon
LOCATION: Room 161 (Auditorium)
Centennial Building
2nd and Edwards Streets
Springfield, Illinois

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 4, 1990

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- B) Types of small businesses affected:
Providers of case management and related services through Older American Act (Title III) contracts/grants and Community Care Program contracts.
- C) Reporting, bookkeeping or other procedures required for compliance:
Standardized programmatic procedures proposed in this rulemaking, as well as those currently in effect in, and those proposed as amendments to, 89 Ill. Adm. Code 230, 89 Ill. Adm. Code 240.
- D) Types of professional skills necessary for compliance:
Experience in health or social sciences, social work, or health service administration.

The full text of the Proposed Amendment(s) begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT OF AGING

PART 220

GENERAL PROGRAMMATIC REQUIREMENTS

Section	Confidentiality and Disclosure of Information
220.100	Client Cooperation
220.200	Referral Requirements
220.300	Other Resources Supporting the Cost of In-Home Care Services
220.400	Appeals and Fair Hearings
220.500	Initiation of Appeal Process
220.501	Request for Hearing or Appeal
220.502	Place of Filing
220.503	Responsibility of Department or Area Agency on Aging
220.504	Informal Review
220.505	Hearing Officer
220.506	Notice of Hearing
220.507	Representation of Appellant
220.508	Appellant Participation in Hearing
220.509	Amendment of Appeal
220.510	Consolidation of Appeals
220.511	Postponement of Hearing
220.512	Withdrawal of Appeal
220.513	Evidentiary Requirements
220.514	Closing of Hearing Record
220.515	Dismissal of Appeals
220.516	Transcript
220.517	Decision
220.518	Notice of Decision to Appellant
220.519	Public Review
220.520	Case Coordination Unit Minimum Standards
220.600	Case Management Staff Requirements and Qualifications
220.605	Case Coordination Unit Procurement
220.610	Procurement Cycle
220.615	Definition of Case Coordination Unit Request For Proposal
220.620	Issuance of Case Coordination Unit Proposal and Guidelines
220.625	Content of Case Coordination Unit Request For Proposal
220.630	Review of Case Coordination Unit Proposals
220.635	Evaluation of Case Coordination Unit Proposals
220.640	Designation of Case Coordination Units
220.645	Protest or Objections to Case Coordination Unit Award Determination
220.650	

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220.655	Procurement of a Replacement Case Coordination Unit
220.660	Compliance Reviews of Case Coordination Units
220.665	Case Coordination Unit Compliance
220.670	Sanctions for Case Coordination Unit Failure to Comply with Case Management Contract/Grant

APPENDIX A	Names and Addresses of Area Agencies on Aging by Planning and Service Area
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AUTHORITY: Implementing and authorized by Section 4.01 of the Illinois Act on the Aging (Ill. Rev. Stat. 1983, ch. 23, par. 6104.01).

SOURCE: Adopted at 5 Ill. Reg. 3722, effective March 31, 1981; codified at 8 Ill. Reg. 19310; amended at 14 Ill. Reg. _____, effective _____.

Section 220.600 Case Coordination Unit Minimum Standards

- a) To be designated as a Case Coordination Unit (CCU) for a specific geographic area, as identified by the Area Agency on Aging (AAA) in a specified planning and service area, an agency shall enter into a contract or grant with the AAA to provide Title III (Older Americans Act) case management services pursuant to 89 Ill. Adm. Code 230 (Subpart G) and with the Department to provide Community Care Program (CCP) case management services pursuant to 89 Ill. Adm. Code 240.260 and 240.1400 et seq..

- 1) The agency shall be a free-standing, single purpose agency, or shall be part of a multi-purpose agency. A multi-purpose agency shall have a separate, clearly definable organizational unit functioning as the CCU.

A) An AAA shall not be designated a CCU except in an emergency situation as specified in Section 220.655(g).

B) A CCP vendor may not serve as a CCU in the same contract service area except in temporary situations as specified in 89 Ill. Adm. Code 240.1400(f).

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- 2) The designation of CCUs shall be accomplished by the AAA and the Department as described in Sections 220.610 through 220.645.
- 3) Only one (1) designated CCU shall have jurisdiction in a particular geographic area.
- b) Case management service is defined as the provision of comprehensive needs assessments and service coordination to assist older persons to gain access to and receive needed services with efforts made to mobilize and coordinate formal and informal sources of support on behalf of the older person.
- c) An individual AAA may establish additional requirements than those specified in subsections (d) through (o) relative to any contract/grant for case management services provided in its respective planning and service area. Such additional requirements shall bear no additional cost to the Department.
- d) Case management service activities shall minimally include (as specified in 89 Ill. Adm. Code 230.250(i)(1) and 240.1420):
- 1) Intake: Older persons who are potentially in need of case management services shall be screened.
 - 2) Needs Assessment: A face-to-face assessment/reassessment shall be conducted for all Title III case management clients and CCP applicants/clients.
 - 3) Care Plan Development: A written plan of care shall be prepared for all individuals determined to be in need of case management services.
 - 4) Care Plan Implementation: A referral of the client shall be made to appropriate formal and informal resources.
 - 5) Follow-up: Contact to ensure that service has been implemented for the client.
- e) The CCU shall have and observe written policies and procedures for the following:

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- 1) Coordinating services with the following types of organizations in the contractual area:
- A) Information and Referral Providers
 - B) Health Care Providers
 - C) Social Service Providers
 - D) Public Assistance Organizations
 - E) Elder Abuse Provider Agencies
- 2) Coordinating services to individual clients must, at a minimum, include a process for handling information requests, referrals, and follow-up activities.
- 3) Assuring that each client has an assigned case manager to contact, and back-up procedures for assigning a substitute case manager, who meets the minimum requirements specified in Section 220.605 and in 89 Ill. Adm Code 240.1440, in the absence of the assigned case manager.
- 4) Assuring maintenance of and safeguarding the use of and disclosure of information relating to applicants and clients as required by Federal or State laws, rules and regulations and the requirements specified in Section 220.100 and in 89 Ill. Adm. Code 240.340.
- 5) Providing services to non-English speaking and hearing impaired applicants and/or clients.
- 6) Complying with Illinois Human Rights Act as amended (Ill. Rev. Stat., 1989, ch. 68), Equal Employment Opportunity Act of 1974, as amended, the Federal Rehabilitation Act of 1973, as amended, the Federal Immigration and Relocation Act of 1986, as amended, and the Department's Civil Rights Program.
- 7) Service activities and responsibilities for which a contract/grant is in effect.
- 8) Personnel policies, job descriptions, and wage scales for each job category. Personnel policies

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shall include hours of work, benefits, and promotion and evaluation criteria.

A) There shall be a written job description for each job category for all paid and volunteer staff positions which are part of the service.

B) Personnel records shall be maintained for each employee and shall include at least the following:

- i) Employee application;
- ii) Annual performance evaluation;
- iii) Supervisory reports regarding case managers; and
- iv) Certification of meeting all training requirements specified in Section 240.1440.

C) Each employee file shall also contain documentation of the following items:

- i) That a copy of the employee's specific job description has been provided to the employee;
- ii) That the employee has received a copy of current written personnel policies for his/her specific job category at the time of employment and any subsequent revisions;
- iii) That the employee has been informed of the wage scale for the specific job category at the time of employment and any subsequent revisions;
- iv) That employee benefits and grievance procedures, which meet applicable Federal and State regulations, have been clearly stated and provided in writing for each employee.

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f) The CCU shall be located to provide accessibility to older persons and their families and other organizations providing services to the elderly in the agency's jurisdiction.

g) Any satellite office(s) operated by the CCU shall comply with all rules and regulations, as set forth in 89 Ill. Adm. Code 220, 230 and 240.

h) The CCU shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in performance of the contract(s) or grant(s). These records shall be subject at all reasonable times to inspection, review, or audit as specified in Ill. Adm. Code 230 and 240.

i) The CCU shall comply with all applicable Federal, State and local laws, rules, regulations and ordinances as well as all specific requirements as set forth in this Part and in 89 Ill. Adm. Code 230 and 240.

j) Each CCU shall carry general liability insurance in the single limit minimum amount of \$100,000 per occurrence. The policies or current letters documenting all insurance coverage shall be available in the CCU files.

k) CCUs shall not subcontract for the direct provision of case management services unless prior written approval has been obtained from the Department and the AAA, as appropriate.

l) CCUs are expressly prohibited from assigning either their contract with the Department or their contract/grant with the AAA.

m) The CCU shall provide for financial audits in accordance with requirements specified in 89 Ill. Adm. Code 230.360 et seq. and 240.1420.

n) All records, case notes or other information maintained on persons served under the contract shall be confidential and shall be protected by the CCU from unauthorized disclosure pursuant to Section 220.100.

o) All program records, reports, and related information and documentation, including client files, which are

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generated in support of a contract/grant between the CCU and the Department/AAA shall be maintained by the CCU for a minimum of three (3) years from the termination date of the contract/grant or for a period of time otherwise specified by the Department/AAA (e. g., if any litigation, claim or audit is started prior to the expiration of the three (3) year period, the records shall be retained until all litigation, claims or audit findings involving the affected records, information or documentation has been resolved).

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.605 Case Management Staff Requirements and Qualifications

a) The agency shall have sufficient staff to perform all activities and to fulfill all responsibilities outlined in Ill. Adm. Code 230.610 et seq. and 240.1400 et seq. for which a contract/grant to perform is in effect.

1) Case management supervisor activities shall include:

- A) consultation on plan of care activities;
- B) documented provision of training on Illinois Department on Aging and Area Agency on Aging policies, procedures and case management techniques;
- C) annual written performance evaluation of case managers for whom they serve as supervisor.

2) Case management supervisor minimum qualifications shall be:

- A) either a RN, or have a BSN or a BA/BS degree in health or social sciences, social work, or health service administration; or
- B) have at least two years experience in health or human services. This experience shall include one year of supervisory experience or program experience, which is defined as assessment, provision, and/or authorization of formal services for the elderly.

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3) Case manager activities shall include:

- A) administration of the appropriate intake form, including a comprehensive needs assessment;
- B) development of a plan of care;
- C) making appropriate referrals and responding to applicant/client requests;
- D) authorization of services; and
- E) maintaining case records, including documentation of follow-up and of termination.

4) Case manager minimum qualifications shall be a RN, or a BSN or a BA/BS degree in social science, social work or related field, or a LPN.

A) One year of program experience may replace one year of college education up to and including four years of experience replacing a baccalaureate degree.

B) A LPN must have three years of program experience which is defined as assessment of and provision of formal services for the elderly and/or authorizing service provision.

5) Case Manager Supervisors and case managers shall meet all training requirements as specified in Section 240.1440.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.610 Case Coordination Unit Procurement

In order to maximize competition in procurement, case management services shall be procured through use of the Request for Proposal process described in Sections 220.615 through 220.640

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.615 Procurement Cycle

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At least once every three years each county/service area will be opened for free and open competition for designation to provide case management services as specified in Section 240.645.

- a) To ensure that each contract/grant is procured pursuant to these rules, all areas of the state will have been opened for initial solicitation by the end of federal Fiscal Year 1994 to begin the three (3) year cycle.
- b) The Department/Area Agency on Aging (AAA) shall offer a contract/grant for a one (1) year period, with option to extend the contract/grant for a period of time not to exceed two (2) additional one (1) year periods following the initial contract execution. Thus, a contractor exhibiting good service performance might be retained, through contract extension, for a three (3) year period.
- c) In the event that a change in the reimbursement amount occurs during the period of the contract/grant, the Department/AAA shall exercise the thirty (30) calendar day termination or mutual amendment rights specified in the contract/grant, in order to ensure full implementation of the adjusted rate.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.620 Definition of Case Coordination Unit Request For Proposal

A Request for Proposal (RFP) is a form of invitation to bid which the Department and the Area Agency on Aging shall use to obtain case management services to be provided by a Case Coordination Unit (CCU). The RFP shall explain the purpose of the invitation to bid, outline the scope of the work, and solicit proposals from agencies for the funding of case management services to be provided by CCUs for the Department's Community Care Program and for the Area Agency on Aging.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.625 Issuance of Case Coordination Unit Proposal and Guidelines

- a) All Case Coordination Unit (CCU) procurement actions shall be advertised in the official state newspaper.

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- 1) Advertisements shall appear at least three (3) times with the first and last advertisement at least ten (10) calendar days apart.
- 2) Advertisements shall detail the Department's and AAA's needs or may generally indicate needs while inviting agencies to request the CCU Proposal and Guidelines (refer to Section 220.230).

b) The Department and the AAA shall establish and maintain a list of applicants/agencies who are interested in providing case management services to be bid and have demonstrated that interest in writing to the Department or to the AAA.

- 1) The Department shall provide the AAA with the Department's list of applicants/agencies, and the AAA shall provide the Department with the AAA's list of applicants/agencies, at least two (2) weeks prior to issuance of the CCU Proposal and Guidelines.

2) A CCU Proposal and Guidelines shall be sent to all applicants/agencies on these mailing lists by the AAA.

- 3) The applicant/agency lists shall be maintained until the Request for Proposal (RFP) process has been completed.

4) Following the RFP and subsequent award process, applicants must again request placement on the list in writing for the next solicitation.

c) The AAA shall ensure that a CCU Proposal and Guidelines are issued to current contractors in good standing whose service areas are open for solicitation.

Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.630 Content of Case Coordination Unit Proposal and Guidelines

- a) A standard Case Coordination Unit (CCU) Proposal and Guidelines shall be utilized by an Area Agency on Aging (AAA) conducting a solicitation, or by the Department in the event that a particular AAA is unwilling or unable to

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conduct the procurement. Prior to the beginning of the procurement cycle, the standard CCU Proposal and Guidelines shall be developed jointly by the Department and AAAs, and shall be utilized by all AAAs.

- 1) Additional requirements (refer to Section 220.600(c)) mandated by a particular AAA shall be added to the standard CCU Proposal. Such additional standards shall bear no additional cost to the Department.
- 2) Additional services, if required by a particular AAA to be provided through a case management contract/grant, shall be directly related to case management services as defined in Section 220.600(b) (e.g. Information and Referral, Ombudsman) and shall be added to the standard CCU Proposal.
- b) The CCU Proposal shall consist of the questions and required attachments to be completed by the applicant and returned to the AAA or the Department, as appropriate, for consideration and scoring.
- c) The Guidelines for Completion of the CCU Proposal shall contain necessary information to enable a prospective CCU to prepare a proposal, including:
 - 1) a clear and accurate description of the case management service to be provided;
 - 2) the submission process;
 - 3) the review process;
 - 4) general contract and bid information;
 - 5) date, time and address of bidders' conference, when applicable;
 - 6) contact person;
 - 7) evaluation factors and the weighting of those factors;
 - 8) anticipated amounts of contract/grant award for service.

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d) All proposals shall be considered as submitted and may not be amended or revised except as determined by the AAA or the Department, as appropriate, upon submission of supportive evidence of an apparent clerical mistake or other informality disclosed prior to award of the contract/grant. (See Section 220.640.)

- 1) No corrections shall be permitted to make unresponsive proposals responsive to the rating criteria and proposal guidelines.
- 2) Allowable administrative corrections will be made by the AAA or the Department, as appropriate, within seven (7) calendar days from the date of receipt of documentation supporting the administrative corrections.

e) A proposal which does not respond to all requirements in the CCU Proposal and Guidelines shall be deemed incomplete and shall not be considered by the Department.

f) The Director of the Department reserves the right to reject any informality of a proposal when, in the Director's opinion, the best interests of the State will be served by such action.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.635 Review of Case Coordination Unit Proposals

- a) Upon receipt of the proposals, the Area Agency on Aging (AAA) shall log in the proposals.
- b) Three (3) copies of each proposal shall be placed in a sealed envelope for transmission to the Department.
- c) The AAA will review and score all proposals, in accordance with Section 220.640, on a standard score sheet.
- d) The AAA will transmit the sealed proposals, the scoring sheets, and the AAA's written recommendation for designation (refer to Section 220.645) to the Department.
- e) The Department will review the AAA's process and recommendation for designation.

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f) The Department will develop its recommendation for designation.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.640 Evaluation of Case Coordination Unit Proposals

a) A proposal which fails to meet minimum requirements, contained in 89 Ill. Adm. Code 220, 230, and 240, shall be rejected.

b) When determining if an applicant shall be recommended for designation, the Area Agency on Aging (AAA) or the Department shall evaluate the Case Coordination Unit (CCU) Proposal.

c) The quality criteria and assigned points for items scored in the CCU Proposal are:

1) Experience in the provision of Community Care Program (CCP) case management service:

A) current CCP contracted CCU in solicited area, (25 points); or

B) current contracted CCP CCU in area contiguous to the solicited area, (15 points); or

C) current contracted CCU in the Community Care Program, (10 points).

2) Experience in the provision of Title III of the Older Americans Act services:

A) current Title III case management grant or contract, (25 points), or

B) current Title III grant for non-case management service or for CCP homemaker, chore-housekeeping or adult day care contract, (10 points); or

3) Experience in the provision of case management service(s) other than CCP or Title III CCU, (5 points).

4) Exceeding Minimum Requirements:

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A) Service Delivery 0 - 5 points

B) Client Issues 0 - 5 points

C) Staffing 0 - 15 points

D) Fiscal 0 - 15 points

E) Agency Administration 0 - 5 points

F) Training of staff 0 - 5 points

d) The written evaluation of the CCU Proposal shall identify the final score of each proposal.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.645 Designation of Case Coordination Units

a) The Director of the Department shall represent and act for the State in all matters pertaining to the Request for Proposal process and to contracts awarded as a result of that process.

1) The Director reserves the right to reject any informality in the proposal when, in the Director's opinion, the best interests of the State will be served by such rejection.

2) The Director shall receive all scores, score sheets and recommendations and has the ultimate decision making authority for award of Department contracts.

3) If the Department and Area Agency on Aging (AAA) recommendations are in agreement, notification of intent to designate will be issued in accordance with subsection (b) below.

4) In the event the Department and AAA recommendations are not in agreement, the Department will notify the AAA in writing of its recommendation, together with an explanation of the differences between the two recommendations and the basis for the differences.

A) The Department and AAA will meet to review and discuss the differences within ten (10) work

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days from the date of the Department's written notice to the AAA.

B) If agreement to offer a contract/grant is reached, notification of intent to designate will be in accordance with subsection (b) below.

C) If agreement to offer a contract/grant is not reached, and time and circumstances allow, the Department and/or AAA will re-initiate a procurement in accordance with Sections 220.625 through 220.650.

D) If agreement to offer a contract/grant is not reached, an emergency exists, and/or the public exigency will not permit a delay incident to competitive solicitations, the RFP process will not be used and the Department/AAA shall issue a temporary negotiated contract/grant. Circumstances under which this action is indicated include:

- i) service is immediately needed to prevent interruption of services to current clients; or
- ii) service is immediately needed to protect client's or clients' health, safety or welfare; and
- iii) only one CCU is reasonably capable or willing to perform per the Department/AAA assessment of viable alternate applicants.

b) After the evaluation of proposals has been completed and the Department and AAA have agreed upon a designation, the Department and AAA shall jointly notify each applicant, in writing, of the applicant's success or failure to be offered a contract/grant and designation as a Case Coordination Unit (CCU). Included in the notification shall be:

- 1) a copy of the criteria used to rate the proposal.
- 2) a photocopy of the score sheets, and

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3) a comparative chart of section total scores received by a successful competitor for that geographic contract/grant area.

c) All agencies submitting successful proposals shall be offered a contract/grant from the Department and a contract/grant from the AAA, as appropriate. The successful Proposal shall be an integral part of the contract/grant awarded.

d) A successful CCU shall be held accountable for all statements made in the CCU Proposal, as well as any amendments made to a contract/grant, until such time as the contract/grant is terminated or a new Proposal is solicited and the CCU has been awarded a new contract/grant.

1) A contract/grant may be amended with the mutual consent of the Department and AAA and the CCU at any time during the term of the contract/grant.

2) Determination of the extent of a CCU's compliance with that agency's proposal/contract/grant and any applicable amendments shall be made by the Department and the AAA through separate review processes.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.650 Protest or Objection to Case Coordination Unit Award Determination

a) Upon receipt of the written notice specified in Section 220.645 (b), the applicant may protest or object to the procurement action.

1) A protest or objection regarding a procurement action or decision must be in writing and sent by certified or registered mail, return receipt requested, to the Director at the Department's Springfield office within ten (10) calendar days from the date of receipt by the protestor of the notice of the objectionable action.

2) The Department shall immediately notify the affected Area Agency on Aging (AAA) upon receipt of a protest or objection.

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- 3) If the protest or objection is not received in the time specified above, the protest will be denied and the award will be made in the normal manner.
- 4) Each protest or objection must contain:
- A) A full and concise statement of the facts and circumstances of the action which is alleged to be objectionable, legally or otherwise, and
 - B) A statement of the relief sought.
 - C) A request that the Department review of the protest or objection be conducted either face-to-face with the appellant or through a paper work review of the relevant documentation.

5) The Department may request additional details from the protesting/objectioning agency and from the AAA at any time. Failure of the protesting/objectioning agency to supply information requested by the Department will be cause for dismissal of the protest.

b) If a written protest against the making of an award is received, the award shall not be considered final until the matter is resolved, unless the Department determines that:

- 1) The services to be procured are urgently required; or
- 2) Delivery or performance of the services will be unduly delayed by failure to make an award promptly; or
- 3) A prompt award will otherwise be advantageous to the State.

c) Upon receipt of a written protest or objection specifying the desire of the appellant for a face-to-face review, a hearing shall be conducted in accordance with Section 220.500 et. seq. and a recommendation will be made to the Director by the hearing officer. If the AAA conducted the procurement to which the protest or objection is in relation, the AAA shall act as a party in the face-to-face review.

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- d) Upon receipt of a written protest or objection specifying the desire for a paper work review of the relevant documentation, appropriate Department staff shall review the procurement action in question and make a recommendation to the Director.
- e) The decision of the Director is final.
- 1) The Director shall issue a response in writing to the objecting agency which shall be sent by certified mail, return receipt requested.
 - 2) A copy of the Director's decision shall be provided to the appropriate Area Agency on Aging.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.655 Procurement of a Replacement Case Coordination Unit

a) A contract between the Department and a Case Coordination Unit (CCU) or a contract/grant between the Area Agency on Aging (AAA) and the CCU may be terminated prior to the regular procurement cycle due to:

- 1) the CCU exercising its termination rights as specified in the contract/grant, or
- 2) the CCU failing to perform in accordance with applicable provisions of 89 Ill. Adm. Code 220, 230 and/or 240, or other provisions of the contract/grant.

b) A contract/grant may be terminated by either the Department or the AAA. Both the Department and the AAA shall abide by the decision to terminate.

c) In the event of termination of a CCU contract/grant in accordance with subsection (a) or (b), the AAA shall review the proposals submitted during the previous Request for Proposals (RFP) submittal and, following notification to and acceptance by the Department, shall offer a temporary negotiated contract/grant to the second ranked viable applicant from that previous RFP submittal.

d) If the AAA and/or the Department determines that applications from the previous RFP submittal do not yield

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an acceptable agency/organization for designation as the CCU, or if there was no second applicant, the AAA shall procure the needed CCU in accordance with the process contained in Sections 220.610 through 220.650.

- e) If the AAA notifies the Department that it elects not to take the lead in procuring the needed CCU, the Department shall take the lead per Sections 220.610 through 220.650 while assuring that the AAA is apprised at all stages of the procurement/designation process.

- f) In the event of an emergency, and the public exigency will not permit a delay incident to competitive solicitations, the RFP process will not be used and the Department/AAA shall issue a temporary negotiated contract in accordance with provisions of Section 220.645(a) (4) (D).

- g) In the event that no temporary negotiated contract/grant can be awarded, the Department shall request that the AAA perform the CCU function on an emergency basis. If an AAA serves as a CCU, an Area Plan direct service waiver shall be submitted to the Department, as specified in 89 Ill. Adm. Code 230.130(f).

- h) All temporary and emergency contracts and grants shall expire, at a maximum, no later than the end of the next completed procurement or at the end of one (1) year, whichever occurs first.

(Source: Added at 14 Ill. Reg. _____, effective _____)
Section 220.660 Compliance Reviews of Case Coordination Units

Case Coordination Units shall be reviewed on-site at least twice in each three-year period: once by the Department and once by the Area Agency on Aging (AAA). (See Section 220.665.) The compliance reviews conducted by the Area Agency on Aging shall not duplicate, in content, the compliance reviews conducted by the Department on Aging.

- a) The Department shall develop and implement a single compliance review instrument and compliance review process to be applied during any single funding period.

- b) In order to ensure statewide continuity, the AAAs shall develop and implement a single compliance review

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instrument and a single compliance review process to be applied during any single funding period. Any AAA implementing additional requirements and/or services (refer to Section 220.630(a)) shall develop additional sections addressing those AAA specific additional requirements and/or services.

- c) Both the Department's and the AAAs' compliance review instrument shall address requirements as contained in the funding instrument (contract or grant) with each CCU and this Part. In addition:

- 1) the Department's compliance review instrument shall address relevant requirements of this Part and 89 Ill. Adm. Code 240, and

- 2) the AAA's compliance review instrument shall address relevant requirements of this Part, Title III of the Older Americans Act, and 89 Ill. Adm. Code 230

(Source: Added at 14 Ill. Reg. _____, effective _____)
Section 220.665 Case Coordination Unit Compliance

- a) Case Coordination Units (CCUs) must comply with the Request for Proposal, Federal, State and local laws, regulations and Department rules, policies and procedures.

- b) The Department and the Area Agency on Aging (AAA) shall determine compliance by performing compliance reviews in accordance with Section 220.660 of the CCU's contract/grant file records.

- 1) Files are maintained by the Department and the AAA, respectively, regarding quality of service provision, technical assistance and training provided, correspondence, and day-to-day CCU activity.

- 2) CCU Compliance Review (CCUCR) Reports are maintained by the Department and the AAA and findings are acted upon as described in Section 220.670 and 89 Ill. Adm. Code 230.650 and 240.1720.

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- 3) The Department and the AAA shall have the authority to conduct a review of a CCU agency at any time during the course of the CCU's contract or grant period, as appropriate, for the purpose of protecting the health, safety and welfare of the clients and ensuring CCU adherence to Department rules, policies and procedures.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 220.670 Sanctions for Case Coordination Unit Failure to Comply with Case Management Contract/Grant

- a) Department or Area Agency on Aging (AAA) sanctions which shall be imposed upon any Case Coordination Unit (CCU) which fails to comply with applicable Federal, State and local laws, regulations and Department rules, policies and procedures and/or other contract requirements (which include the statements contained in the CCU's Proposal) include:

- 1) being placed "On-Notice".
- 2) mandatory training or technical assistance.
- 3) requiring a limited financial audit.
- 4) suspension (AAA action only).
- 5) termination of contract/grant.

- b) CCUs shall be advised by the Department or Area Agency on Aging (AAA), as appropriate, (with a copy being provided to the other) of contract/grant action(s) being taken as a result of non-compliance findings.

- c) Department or AAA termination of a CCU contract/grant shall be initiated by notice to the Department or the AAA, as appropriate, and to the affected CCU (by certified mail, return receipt requested), which shall include:

- 1) notice of the intent to terminate the specific CCU contract/grant;
- 2) notice of the Peer Review procedure established in subsections (d) through (i) below; and

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- 3) ten (10) calendar day preliminary notice of the date, time and location of the Peer Review Committee meeting.

- d) All recommendations of CCU contract/grant termination shall be reviewed by a Peer Review Committee which shall be convened by the Department within ten (10) work days following the date of the written notice of intent to terminate specified in subsection (c).

- 1) The Peer Review Committee will make recommendation as to the appropriateness of the intent to terminate prior to the Department and AAA initiating any final action.

- 2) The Department and AAA shall not be bound by the recommendation of the Peer Review Committee and may take action independent of that recommendation.

- e) The Peer Review Committee shall be composed of the following, with each participant chosen from the respective constituent group:

- 1) three (3) representatives from individual Area Agencies on Aging.
- 2) two (2) representatives from Individual Case Coordination Units.
- 3) one (1) representative from a Community Care Program service vendor, (not in the geographic service area covered by the CCU under scrutiny), and
- 4) one (1) representative of a State agency.

- f) Each representative of the Peer Review Committee shall be free of any conflict of interest, i.e. shall not be a representative of the AAA or CCU involved in the action being considered nor have any legal or organizational association with the AAA or CCU involved, nor have a contract/grant in the particular planning and service area.

- g) A separate Peer Review Committee shall be chosen to act with respect to each specific contract/grant termination action.

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h) The Department, the applicable AAA and the CCU whose contract/grant is under scrutiny shall have the opportunity to present all relevant information for consideration by the Peer Review Committee.

i) Recommendation of the Peer Review Committee shall be provided in writing to the Department and AAA within fifteen (15) calendar days following the date of the Peer Review Committee meeting.

j) If, following review by the Peer Review Committee, the Department or the AAA determines that termination is warranted, the Department and the AAA shall jointly provide the CCU with written notice of the decision to terminate the CCU's contract by certified mail, return receipt requested. Included in the written notification of termination shall be:

- 1) the effective date of termination;
- 2) Advisement of the CCU's right to appeal the termination action.

l) Appeals shall be addressed, delivered or mailed to:

Director
Attention: General Counsel
Illinois Department on Aging
421 East Capitol Avenue
Springfield, Illinois 62701.

m) An appeal must be received by the Department on or before the tenth (10th) work day from the date of the termination notice to the CCU specified in subsection (l) above.

n) An appeal received after the tenth (10th) work day from the date of the termination notice to the CCU, as evidenced by the postal return receipt, shall be denied.

o) The appeal shall specify the appellant's request that the Department review of the appeal be conducted either face-to-face with the appellant or through a paper work review of the relevant documentation.

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1) If a face-to-face review is requested, a hearing shall be conducted in accordance with provisions of Section 220.500 et. seq..

2) If a paper work review is requested, the General Counsel shall review the appeal data submitted by the CCU.

3) At the conclusion of the hearing or the paper work review, a written recommendation shall be submitted to the Director.

p) The Director shall review the recommended written report of the appeal and make a final administrative decision to either sustain the appeal of the CCU or uphold the action of the Department and AAA to terminate the contract/grant.

1) Terminations determined to be invalid shall be vacated and the CCU contract shall be reinstated.

2) Terminations determined to be valid shall be upheld.

q) The Director shall provide written notice to the CCU by certified mail, return receipt requested, of the final administrative decision resulting from the appeal.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Older Americans Act Programs
- 2) Code Citation: 89 Ill. Adm. Code 230
- 3) Section Numbers: Proposed Action:
 230.250 Amendment
 230.610. 230.620, 230.630 New Section
 230.640, 230.650 New Section
- 4) Statutory Authority: Ill. Rev. Stat., Ch. 23 Sections
 6104.01(4), (9), (11) and (12);
 6104.02, 6104.03 and 6105.02
- 5) A Complete Description of the Subjects and Issues Involved:

This rulemaking is the product of a two year joint-process of development and negotiation between the Department on Aging and Illinois' thirteen Area Agencies on Aging.

The purpose of this rulemaking is to assure increased uniformity and consistency of case management statewide in order to improve access to and quality of home and community based services. In addition, this rulemaking is to provide Older Americans Act (Title III) program specific requirements relative to the case management services: general service provider requirements; service availability requirements; required service activities; required records and documentation; and, compliance requirements during contract/grant period.

The requirements contained in this rulemaking are supplementary to requirements proposed as amendments to 89 Ill. Adm. Code 220 also published in this edition of the Illinois Register.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date?
 Yes ☐ No ☒
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? No

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- 10) Statement of Statewide Policy Objectives: N/A
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
 Interested persons may present their comments concerning these rules by writing to Mr. Melvin E. Koch, Policy and Rules Analyst, Illinois Department on Aging, 421 East Capitol Avenue, Springfield, Illinois 62705 within 45 days after the date of this issue of the Illinois Register.
 These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.02 of the Illinois Administrative Procedure Act, any small business may present their comments to Melvin E. Koch at the above address.
 Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.
 In addition, the Department on Aging will hold a PUBLIC HEARING on this rulemaking:

DATE: January 8, 1991
 TIME: 9:00 A.M. until 12:00 Noon
 LOCATION: Room 161 (Auditorium)
 Centennial Building
 2nd and Edwards Streets
 Springfield, Illinois

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 4, 1990
- B) Types of small businesses affected:
 Providers of case management and related services through Older American Act (Title III) contracts/grants.
- C) Reporting, bookkeeping or other procedures required for compliance:
 Standardized programmatic procedures proposed as amendments to 89 Ill. Adm. Code 220.

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- D) Types of professional skills necessary for compliance:
Experience in health or social sciences, social work, or health service administration.

The full text of the Proposed Amendment(s) begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 230
OLDER AMERICANS ACT PROGRAMS

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230.30	State Plan
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230.41	Advocacy
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230.43	Service Delivery Systems Responsibilities
230.44	State Advisory Council
230.45	Intrastate Funding Formula
230.46	Hearings
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230.110	Designation and Function
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230.210	Direct Provision of Services by the Department and Area Agencies on Aging
230.220	Planning, Coordination and Provision of Services Funded Under Other Programs
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230.330 Service Funding Requirements
 230.340 Obligation of Allotments
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 230.360 General Financial and Compliance Requirements
 230.361 Purpose of Financial and Compliance Audits
 230.362 Audit Engagement Letter
 230.363 Distribution of the Cost of a Unified Audit
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SUBPART E: HEARINGS

Section
 230.410 Hearing Before the Department
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SUBPART F: TITLE III-D

Section
 230.510 Target Population
 230.520 Eligibility Criteria
 230.530 Eligibility Determination
 230.540 Allowable Services
 230.550 Maintenance of Effort
 230.560 Coordination of Services
 230.570 Distribution of Funds
 230.580 Area Agency on Aging Administration

SUBPART G: CASE MANAGEMENT SERVICES

230.610 General Requirements for Providers of Case Management Services
 230.620 Case Management Service Availability
 230.630 Service Activities
 230.640 Records and Documentation
 230.650 Case Coordination Unit Compliance During Contract/Grant Period

AUTHORITY: Implementing the Illinois Act on the Aging (Ill. Rev. Stat. 1987, ch. 23, pars. 6101 et seq.) and the Older Americans Act (42 U.S.C.A., 3001 et seq.) and authorized by Section 4.01 of the Illinois Act on the Aging (Ill. Rev. Stat. 1987, ch. 23, par. 6104.01).

SOURCE: Adopted at 5 Ill. Reg. 3722, effective March 31, 1981;

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amended at 6 Ill. Reg. 7379, effective June 16, 1982; codified at 7 Ill. Reg. 5178; amended at 7 Ill. Reg. 9132, effective July 27, 1983; amended at 8 Ill. Reg. 9330, effective June 15, 1984; amended at 9 Ill. Reg. 5297, effective April 8, 1985; amended at 10 Ill. Reg. 5787, effective March 27, 1986; recodified at 10 Ill. Reg. 7653; amended at 10 Ill. Reg. 14616, effective August 26, 1986; amended at 11 Ill. Reg. 3856, effective February 17, 1987; amended at 11 Ill. Reg. 7586, effective April 8, 1987; amended at 11 Ill. Reg. 15869, effective October 1, 1987; emergency amendments at 12 Ill. Reg. 12540, effective July 15, 1988, for a maximum of 150 days, emergency expired December 12, 1988; amended at 13 Ill. Reg. 2015, effective February 1, 1989; amended at 13 Ill. Reg. 3054, effective March 1, 1989; amended at 13 Ill. Reg. 20299, effective December 15, 1989; amended at 14 Ill. Reg. 2308, effective January 25, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: Bold faced type denotes statutory language.

SUBPART C: SERVICE REQUIREMENTS

Section 230.250 Services

The following requirements shall apply to services provided under this subpart.

a) Multipurpose Senior Centers

- 1) An area agency on aging may award social service funds under this Part to a public or private nonprofit agency for the following purposes:
 - A) Acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a multipurpose senior center;
 - B) Constructing a facility, including a mobile facility, for use as a multipurpose senior center;
 - C) The costs of professional and technical personnel required to operate a center.
- 2) In making awards for the purposes specified in this Section, the area agency on aging shall give preference to facilities located in communities with the greatest incidence of older persons with

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the greatest economic or social need.

- 3) The following health, safety and construction requirements shall apply:

A) A recipient of any award for multipurpose senior center activities shall comply with all applicable State and local health, fire, safety, building, zoning and sanitation laws, ordinances or codes.

B) The plans and specifications for an award for acquiring, altering, renovating or constructing a multipurpose senior center facility must comply with regulations relating to minimum standards of construction, particularly with the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157);

C) The Department shall assure the technical adequacy of any proposed alteration or renovation of a multipurpose senior center. The Department assures technical adequacy by requiring that any alteration or renovation of a multipurpose senior center that affects the load bearing members of the facility is structurally sound and complies with all applicable local or State ordinances, laws, or building codes.

- 4) A recipient of an award for altering, renovating or constructing facility to be used as a multipurpose senior center must comply with the requirements of the Davis-Bacon Act (40 U.S.C. 276 (a) et seq.) and other mandatory Federal labor standards.

- 5) The following special conditions for acquiring by purchase, or constructing a facility shall apply:

A) An area agency on aging shall obtain the approval of the Department before making an award for constructing a facility.

B) The Department may approve the construction of a facility after considering the views of the area agency on aging, relative to Subsections

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230.250(a)(2), (3) and (4), if it is found that there is no other suitable facility available to be a focal point for service delivery.

C) The area agency on aging may make an award for purchasing or constructing a facility only if there are no suitable facilities for leasing.

6) A facility altered, acquired, renovated, or constructed using funds under this Part, to be used as a multipurpose senior center may not be used and may not be intended to be used for sectarian instruction or as a place for religious worship.

7) The following funding and use requirements shall apply:

A) Sufficient funds must be available to meet the non-Federal share of the award;

B) Sufficient funds must be available to effectively use the facility as a multipurpose senior center;

C) In a facility that is shared with other age groups, funds received under this rule may support only--

i) That part of the facility used by older persons; or

ii) A proportionate share of the costs based on the extent of use of the facility by older persons; and

D) A multipurpose senior center program must be operated in the facility.

b) Nutrition Services

1) The area agency on aging may award nutrition services funds received under Title III of the Older Americans Act to provide meals and other nutrition services, including outreach, and nutrition education, to older persons. In making these awards the area agency on aging shall assure

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that congregate meals are provided and home-delivered meals are provided based on an assessment of need by the area agency on aging and nutrition service providers.

A) The following eligibility requirements shall be applicable to persons receiving nutrition services:

i) Congregate nutrition services: A person age 60 or older, and the spouse of the person regardless of age, are eligible to participate in congregate nutrition services.

ii) Home-delivered nutrition services: A person age 60 or over who is homebound by reason of illness, incapacitating disability or is otherwise isolated is eligible to receive a home-delivered meal. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal if, according to criteria determined by the area agency on aging, receipt of the meal is in the best interest of the homebound older person.

B) The area agency on aging must assess the level of need for congregate and home-delivered meals within the planning and service area.

2) The area agency on aging may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both type(s) of service(s).

A) The area agency on aging shall award funds to a nutrition services provider that:

i) Was a nutrition project receiving funds under the former Title VII of the Older Americans Act on September 30, 1978. For purposes of this requirement, "nutrition project" means the recipient of a subgrant or contract to provide nutrition services, other than the area agency on

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aging, which met the requirements for a project specified in the former Title VII of the Older Americans Act and implementing regulations.

ii) Meets the requirements of this Section; and

iii) Has carried out its nutrition service activities with demonstrated effectiveness.

B) Except as provided in 45 CFR 74, Subpart M, the area agency on aging shall not discontinue funding to a nutrition project specified in subsection (b) (2) (A) (i) of this Section unless the Department:

i) Has given the project an opportunity for a hearing, in accordance with Section 230.40 of this Part; and

ii) Has determined that the project does not meet the requirements of this Section; or has not carried out nutrition services activities with demonstrated effectiveness. The Department shall not set criteria for demonstrated effectiveness that are different from the requirements imposed on projects during the period for which their performance is being measured.

C) Consistent with the requirements of Subsection (b) (2) (A) of this Section and, to the extent feasible, the area agency on aging must give preference in making awards for home-delivered meals to public, private nonprofit, and voluntary organizations which:

i) Have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

ii) Have furnished assurances to maintain efforts to solicit voluntary support and not to use funds received under this Part

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to supplant funds from non-Federal sources.

3) Each congregate provider shall:

- A) Provide hot or other appropriate meals in a congregate setting at least once a day, five or more days a week;
- B) Locate congregate nutrition services as close as possible and, where feasible and appropriate, within walking distance to the majority of eligible older persons; and
- C) Assess the need for home-delivered meals among participants at its congregate sites.

4) Each home-delivered meals provider shall:

- A) Assess the need for home-delivered meals among the participants for whom it has responsibility;
- B) Provide for home-delivered meals at least once a day, five or more days a week. Meals may be hot, cold, frozen, dried, canned or supplemental foods with a satisfactory storage life;
- C) With the consent of the older person, or his or her representative, bring to the attention of appropriate officials for follow-up, conditions or circumstances which place the older person or the household in imminent danger; and
- D) Where feasible and appropriate, make arrangements for the availability of meals to older persons in weather related emergencies.

5) The following food requirements shall apply for all nutrition service providers:

- A) In purchasing food, and preparing and delivering meals, the nutrition services providers must follow appropriate procedures to preserve nutritional value and food safety.

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- B) The nutrition services providers must comply with all State and local health laws and ordinances concerning preparation, handling and serving food.
- C) The nutrition services provider must provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals.
- D) The nutrition services provider must have available for use upon request appropriate food containers and utensils for blind and handicapped participants.
- E) Each meal served by the nutrition services provider must contain at least one-third of the current Recommended Dietary Allowances as established by the Food and Nutrition Board of the National Academy of Sciences - National Research Council.
- F) A nutrition services provider shall spend U.S.D.A. food assistance cash only for buying United States Agriculture commodities and other food.
- G) The nutrition services providers shall assist participants in taking advantage of benefits available to them under the food stamp program. The nutrition services provider must coordinate its activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

c) Legal Services

- 1) The area agency on aging shall award social services funds under this Part for legal services to older persons with the greatest economic or social needs. The purpose of awards under this subsection is to increase the availability of legal services with a priority on older persons with the greatest economic or social need in order to assist

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them to secure their rights, benefits and entitlements, and to assist them in achieving the objectives of the Older Americans Act. Legal services provided with funds under this Part must be in addition to any legal services already being provided to older persons in the planning and service area.

"Legal services" means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a non-lawyer where permitted by law, to older persons with economic or social needs.

- 2) A legal service provider shall be either:
 - A) An organization that receives funds under the Legal Services Corporation Act (42 U.S.C. 2969); or
 - B) An organization that has a legal services program or the capacity to develop one.
- 3) The area agency on aging shall award funds to the legal service provider(s) that most fully meet(s) the following standards. The legal services provider(s):
 - A) Has staff with expertise in specific areas of law affecting older persons in economic or social need
 - B) Demonstrates the capacity to provide effective administrative and judicial representation in the areas of law affecting older persons with social or economic need;
 - C) Demonstrates the capacity to provide support to other advocacy efforts;
 - D) Demonstrates the capacity to effectively deliver legal services to institutionalized, isolated, and homebound individuals;

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- E) Has offices and/or outreach sites which are convenient and accessible to older persons in the community;
 - F) Demonstrates the capacity to provide legal services in a cost effective manner; and
 - G) Demonstrates the capacity to obtain other resources to provide legal services to older persons.
- 4) Each legal services provider shall:
 - A) Make efforts to involve the private bar in legal services provided under this Part, including groups within the private bar that furnish legal services to older persons on a pro bono and reduced fee basis;
 - B) Ensure that no attorney of the provider engages in any outside practice of law if the director of the provider has determined that the practice is inconsistent with the attorney's full time responsibilities;
 - C) Ensure that while employed under this Part, no employee and no staff attorney of the provider at any time:
 - i) Uses official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office, whether partisan or nonpartisan;
 - ii) Directly or indirectly coerces, attempts to coerce, command or advise an employee of any provider to pay, lend, or contribute anything of value to a political party, or committee, organization, agency or person for political purposes;
 - iii) Is a candidate for partisan elective public office; or
 - iv) Engages in any voter registration

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activity.

D) In areas where a significant number of clients do not speak English as their principal language, adopt employment policies that ensure that legal assistance will be provided in the language spoken by those clients;

E) Adopt a procedure for affording the public appropriate access to the Older Americans Act, regulations and guidelines of 45 CFR Part 1321, the provider's written policies, procedures, and guidelines, the names and addresses of the members of its governing body, and other materials that the provider determines should be disclosed. The procedure adopted must be approved by the area agency on aging;

F) Ensure that legal services are not provided in fee generating cases, as defined in 45 CFR 1609.2, unless adequate representation is unavailable from private attorneys;

G) Ensure that no employee and no staff attorney of the provider shall directly or indirectly engage in activities intended to influence the passage or defeat of any legislation by the Congress of United States or by any State or local legislative body or state proposals by initiative petition except where:

i) Representation by a provider for a client is necessary with respect to such client's rights and responsibilities (except that no employee shall solicit a client in violation of professional responsibilities for the purpose of making such representation possible); or

ii) A governmental agency, legislative body, committee or member thereof requests the provider to testify, draft or review measures or to make representations to such agency, body, committee or member, or is considering a measure directly affecting the activities of a provide

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under this Part; and

H) Ensure that, while providing legal services, no employee and no staff attorney of the provider engages in demonstrations, picketing, boycotts, or rioting or civil disturbance or any illegal activities as defined at 45 CFR 1612.1, 1612.2 and 1612.3.

5) Each legal services provider that is not a Legal Services Corporation grantee shall agree to coordinate its services with Legal Services Corporation grantees in order to concentrate legal services funded under the Older Americans Act on older persons with the greatest economic or social need who are not eligible for services under the Legal Services Corporation Act. In carrying out this requirement, legal services providers shall not use a means test or require older persons to apply first for services through a Legal Services Corporation grantee.

6) A legal services provider under this Part may with the approval of the area agency on aging set priorities for the categories of cases for which it will provide legal representation in order to concentrate on older persons with the greatest economic or social need. In setting case priorities, a legal services provider may consider the availability of staff resources in determining the extent of legal advice and representation to provide individual older persons.

7) A legal services provider shall not require an older person to disclose information about income or resources as a condition for providing legal services under this Part. A legal services provider may ask about the person's financial circumstances as a part of the process of providing legal advice, counseling and representation, or for the purpose of identifying additional resources and benefits for which an older person may be eligible.

d) Information and Referral Services

1) The area plan shall provide for information and

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referral services sufficient to ensure that all older persons within the planning and service area have reasonably convenient access to the service.

A) In areas in which a significant number of older persons do not speak English as their principal language, the service provider shall provide information and referral services in the language spoken by the older person.

B) "Information and referral service" means a system to link people in need of service to appropriate resources.

2) A provider of information and referral services shall:

A) Maintain current information with respect to the opportunities and services available to older persons;

B) Develop current lists of older persons in need of services and opportunities; and

C) Employ a specially trained staff to inform older persons of the opportunities and services which are available and to assist older persons to take advantage of the opportunities and services.

3) An information and referral services provider may disclose information by name about an older person only with the informed consent of the older person or his or her authorized representative.

e) Transportation Services

The area agency on aging may enter into transportation agreements with agencies which administer programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and Title XIX of the Social Security Act to meet the common need for transportation of service participants under the separate programs. Transportation programs are the only activities funded under Title III of the Older Americans Act where the area agency on aging may delegate to another agency the authority to award or administer those funds.

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f) Home Health Services

1) Home health care services authorized under an approved area plan shall be provided by:

A) A Medicare-certified Home Health agency.

B) A self-employed registered nurse who provides services within of their practice as defined by the Illinois (Ill. Rev. Stat., 1981 ch. 111, par. 3401 et seq.), as amended.

C) A physical therapist certified by the Council of Medical Education of the American Medical Association and registered by the State of Illinois.

D) A speech therapist certified by the American Speech and Hearing Association.

E) An occupational therapist registered with the American Occupational Therapy Association.

2) Home health services that may be provided are:

A) Skilled nursing

B) Home health aids

C) Speech therapy

D) Physical therapy

E) Occupational therapy

3) Home health agencies may provide covered services for which they are certified to provide by Medicare.

4) Area agencies providing the services shall develop procedures that will insure that double payments will not be made from the same service, that Title III funds will be used only to increase services, and that rates paid for such services do not exceed the established Medicare rate for the vendor providing the service, nor shall payment be made to supplement payments made through Medicare or

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Medicaid when such supplement is in excess of the established Medicare rate.

- 5) Payment to self-employed registered nurses providing in-home nursing services is made at the community rate for such services as determined for each case at the time prior approval is given.
- 6) Payment to independent therapists and community health agencies shall be at the provider's usual and customary charge, not to exceed the maximum established by the Department at \$10 per half-hour clinical visit.

g) Homemaker Services

Homemaker services authorized under an approved area plan shall meet the definitional requirements specified in 89 Ill. Adm. Code 240.410.

h) Chore and Housekeeping Services

Chore and housekeeping services authorized under an approved area plan shall meet the definitional requirements specified in 89 Ill. Adm. Code 240.420.

i) Other Services

- 1) The Department on Aging allows funds to be expended for service entitled "Case Management". Activities directly associated with this service shall be carried out by Case Coordination Units or other free-standing health and/or social service agencies designated by the Area Agencies on Aging in accordance with applicable provisions of 89 Ill. Adm. Code 220.600 et seq. and 89 Ill. Adm. Code 230 Subpart G.

A) Case Management is defined as:

~~The provision of a standardized needs assessment developed by the Area Agency on Aging, service coordination to assist an older person to gain access to and receive needed services and to mobilize and coordinate formal and informal sources of support on behalf of the older person.~~

2)

Other service components of a comprehensive and coordinated service delivery system that may be funded by an area agency on aging include:

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B) Service activities include:

- i) ~~assessment of applicant's/client's eligibility for individual service programs~~
- ii) ~~initial in-home assessment of need~~
- iii) ~~develop and negotiate an appropriate array of services based on the applicant's/client's needs (this includes active intervention and advocacy on behalf of the client to access necessary services from community organizations)~~
- iv) ~~prepare a written goal-oriented plan of care for the client utilizing all available formal (publically supported services) and informal resources (as part of this plan of care, instructions for service delivery are submitted to the appropriate service providers)~~
- v) ~~establish linkages with service providers for the delivery of services and conduct follow-up to ensure prompt service implementation and respond to changes in client's need and status~~
- vi) ~~encouragement of informal care given by individuals, family, friends, neighbors, and community organization so that publicly supported services supplement rather than supplant the roles and responsibilities of these natural support systems~~
- vii) ~~conduct periodic monitoring of service delivery as outlined in the plan of care~~
- viii) ~~reassess the client's eligibility and need at least annually and when a client's need and/or status changes.~~

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- A) Services which facilitate access, such as outreach, escort, individual needs assessment and service management;
- B) Services provided in the community such as continuing education, health and health screening, program development and coordination activities, individual needs assessment and service management, casework, counseling and assistance (concerning taxes, financial problems, welfare, the use of facilities and services, pre-retirement or second career), day care, protective services, nutrition education, services designed for the unique needs of the disabled, emergency services including disaster relief services, residential repair and renovation, physical fitness and recreation services, services in helping to obtain adequate housing, alteration, renovation, acquisition, where permitted according to the provisions of 45 CFR 1321.131;
- C) Services provided in the home, such as preinstitutional evaluation, casework, counseling, chore maintenance, visiting, shopping, readers, letter writing, telephone reassurance, and nutrition education;
- D) Services provided to residents of care providing facilities, such as casework, counseling, placement and relocation assistance, group services, complaint and grievance resolution and visiting. Care providing facilities include long-term care facilities as defined in 45 CFR 1321.43(b), emergency shelters, and other congregate living arrangements.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

SUBPART G: CASE MANAGEMENT SERVICES

Section 230.610 General Requirements for Providers of Case Management Services

- a) An agency providing Title III case management services

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- shall meet all Case Coordination Unit (CCU) Standards pursuant to 89 Ill. Adm. Code 220.600 et. seq..
- b) A CCU, designated as outlined in 89 Ill. Adm. Code 220.645, shall be funded by the Area Agency on Aging (AAA) for a specific geographic area through a contract or a grant with the AAA for Title III case management services.
- c) A designated CCU shall provide audits in accordance with Area Agency on Aging policies and procedures.
- d) A CCU shall permit access to case files by the Area Agency on Aging or its designee, the Department or its designee, and appropriate Federal agencies. The Department shall notify the AAA when access to Title III case management case files by the Department and/or appropriate Federal agencies is required.
- e) An individual AAA may establish higher standards than those specified in 89 Ill. Adm Code 220.600(d) through (o) relative to any contract/grant for case management services provided in its respective planning and service area. Such higher standards shall be specified in the particular AAA's Request for Proposal and shall bear no additional cost to the Department.
- f) Additional services, if required by a particular AAA to be provided through a case management contract/grant, shall be directly related to case management services as defined in 89 Ill. Adm. Code 220.600(b) (e.g. Information and Referral, Ombudsman, Elder Abuse) and shall be specified in the particular AAA's Request for Proposal.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 230.620 Case Management Service Availability

- a) Case management services shall be provided to older persons to the extent possible with available resources committed by each Area Agency on Aging within each respective planning and service area.
- b) The Case Coordination Unit shall maintain a current comprehensive resource directory containing information on availability of, and methods to access, Title III and Community Care Program (CCP) services, Home Energy

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Assistance, guardianship, and other services available within the CCU's geographic jurisdiction. The resource directory shall be updated at least annually.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 230.630 Service Activities

Case Management service activities minimally include the following components:

- a) Case Finding Activities: The identification of individuals for intake.
- b) Intake: Through the administration of a defined intake process developed or approved by the Area Agency on Aging, an individual with potential case management needs, as defined below, shall be identified.
 - 1) An individual must be age 60 or older; and
 - 2) An individual must demonstrate a need which requires development of a coordinated care plan, follow-up, and/or advocacy; and/or
 - 3) An individual has multiple or complex problems which are often chronic in nature and which may affect the ability of that individual to live independently; and/or
 - 4) An individual has potential need for multiple services; and/or
 - 5) An individual has presenting problems which are vague or ill-defined; and/or
 - 6) An individual has insufficient informal supports to care for his/her needs.
- c) Needs Assessment: A face-to-face comprehensive assessment, preferably conducted in the home of the client, must be conducted for each case management client utilizing a standardized tool, developed or approved by the Area Agency on Aging, to evaluate the conditions of the client and to identify service needs.
- d) Care Plan Development: A written plan of care shall be

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prepared for each client utilizing appropriate and available formal and informal resources, using a standardized form developed or approved by the Area Agency on Aging. The care plan shall provide available services to meet the client's determined needs. A copy of the care plan shall be given to the client and/or client's family and/or significant individual, and so documented in the client's file.

e) Care Plan Implementation: A referral of the applicant/client to an appropriate resource for service provision shall be made and documented in the applicant's/client's file. If the referral is made to an informal network (family, friends, etc.), the service arrangement agreed to regarding duties and responsibilities shall be documented in the client's plan of care.

f) Review and Evaluation of Client Status:

- 1) Follow-up: Follow-up contacts shall be by telephone or face-to-face contact to ensure that service has been implemented for the client. All follow-up shall be documented in the client's file.
- 2) Reassessment: A face-to-face reassessment of the client's condition and needs must be conducted, preferably in the home of the client, no later than the 12th month from the last completed (re)assessment, or more frequently as dictated by change in the client's circumstance.

g) Termination: The client shall be terminated from case management services in the following instances:

- 1) Death of the client;
- 2) Relocation out of the CCU's geographic service area;
- 3) Client cannot be located;
- 4) Client is hospitalized, enters a group care facility, is institutionalized or is otherwise not available for services for more than sixty (60) consecutive calendar days;

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5) Client is no longer in need of case management services because of changes in the client's condition or circumstances.

6) Client refuses services.

7) Client requests termination.

8) Client refuses to cooperate in the provision of case management services.

h) Transfer: When a client moves from the CCU's geographic service area, the CCU shall, with the client's and/or client's family and/or significant individual's written consent, refer the client to the CCU serving the area to which the client has moved.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 230.640 Records and Documentation

a) A Case Coordination Unit (CCU) shall maintain individual client records in a central file. The case file for each client shall minimally include the following information:

1) Intake Form(s);

2) Comprehensive Needs Assessment;

3) Plan of Care;

4) Record of referral(s) and request(s);

5) Correspondence related to the case;

6) Formal case notes, which include documentation of the follow-up; and

7) Documentation of termination.

b) Case files shall be maintained in a manner that shall strictly maintain confidentiality of all information (refer to 89 Ill. Adm. Code 220.100 and Section 230.610(d)).

c) Upon change in CCU designation (specified in 89 Ill. Adm. Code 220), the CCU which has been de-designated shall

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transfer all specified records as prescribed by the Area Agency on Aging to the newly designated CCU.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 230.650 Case Coordination Unit Compliance During Contract/Grant Period

a) Each Case Coordination Unit (CCU) receiving a contract/grant from an Area Agency on Aging (AAA) must comply with Federal, State and local laws, regulations and Department rules, policies and procedures.

b) The AAA shall have the authority to conduct an Administrative Compliance Review of a CCU agency at any time during the course of the CCU's contract/grant period for the purpose of protecting the health, safety and welfare of case management clients.

c) The AAA shall conduct an Administrative Compliance Review in accordance with procedures established by the particular AAA pursuant to Section 220.660 to ensure statewide continuity. Administrative Compliance Reviews shall be conducted no less frequently than one review during each funded period.

d) Records of an administrative compliance review conducted by the AAA shall be maintained by the AAA and corrective action(s), if indicated, shall be taken in accordance with established AAA policy and as described in Section 220.670.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Economic Dislocation and Worker Adjustment Assistance

- 2) Code Citation: 56 Ill. Adm. Code 2625

- 3) Section Numbers: Proposed Action:
2625.55 New Section

- 4) Statutory Authority: Implementing Sections 301(a)(1)(A) through (D), 311(b)(4), and 316(b) of the Job Training Partnership Act (P.L. 97-300, effective October 13, 1982, as amended by P.L. 97-404, effective December 31, 1982; P.L. 99-496, effective October 16, 1986; P.L. 99-570, effective October 27, 1986; and P.L. 100-418, effective August 23, 1988) and 20 CFR 631.3 (revised as of April 1, 1990) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.42).

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking serves to provide rules governing participant eligibility determination for the Economic Dislocation and Worker Adjustment Assistance Program.

- 6) Will these proposed amendments replace an emergency rule currently in effect? No.

- 7) Does this rulemaking contain an automatic repeal date? No.

- 8) Do these proposed amendments contain incorporations by reference? Yes.

- 9) Are there any proposed amendments pending on this Part? Yes.

Section Numbers:	Proposed Action:	Illinois Register Citation:
2625.10	New Section	August 17, 1990 14 Ill. Reg. 13045
2625.30	Amendment	August 17, 1990 14 Ill. Reg. 13045
2625.40	Amendment	August 17, 1990 14 Ill. Reg. 13045
2625.50	Amendment	August 17, 1990 14 Ill. Reg. 13045
2625.60	New Section	August 17, 1990 14 Ill. Reg. 13045
2625.70	New Section	August 17, 1990 14 Ill. Reg. 13045
2625.80	New Section	August 17, 1990 14 Ill. Reg. 13045

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the

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- State Mandates Act (Ill. Rev. Stat. 1989, ch. 85, par. 2203).

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the Illinois Register to the following:

Mr. John D. Taylor, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th floor
Springfield, Illinois 62701
(217) 782-6136

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 4, 1990.

- B) Types of small businesses and small municipalities affected: There will be no direct effect on small municipalities. Thirteen of the JTPA grantees are not-for-profits and are therefore considered to be small businesses in accordance with the Illinois Administrative Procedure Act.

- C) Reporting, bookkeeping or other procedures required for compliance: Eligibility requirements apply to all grantees.

- D) Types of professional skills necessary for compliance: Current JTPA grantee staff possess the skills necessary for compliance.

The full text of the Proposed Amendments begins on the next page:

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occupation within the five (5) years preceding application or have received notice of impending layoff/termination; and either,

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2625

ECONOMIC DISLOCATION AND WORKER ADJUSTMENT ASSISTANCE

Section 2625.20
2625.30 Allocation of Funds
2625.40 Title III Substate Area
2625.50 Designation of Substate Grantees
2625.55 Eligibility Requirements

AUTHORITY: Implementing Section 46.41 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.41) and Sections 4 and 301-317 of the Job Training Partnership Act (P.L. 97-300, effective October 13, 1982, as amended by P.L. 97-404, effective December 31, 1982; P.L. 99-496, effective October 16, 1986; P.L. 99-570, effective October 27, 1986; and P.L. 100-418, effective August 23, 1988) and authorized by Sections 46.40(b) and 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, pars. 46.40(b) and 46.42).

SOURCE: Emergency rules adopted at 13 Ill. Reg. 4019, effective March 13, 1989, for a maximum of 150 days; emergency expired August 10, 1989; adopted at 13 Ill. Reg. 13830, effective August 21, 1989; amended at 14 Ill. Reg. _____, effective _____.

Section 2625.55 Eligibility Requirements

a) To be eligible under Section 301(a)(1)(A) of the Act, applicants must:

- 1) have been terminated or laid off or have received a notice of termination or lay-off from employment within the five (5) years preceding application; and,
- 2) be eligible for or have exhausted their entitlement to unemployment compensation as determined by the Illinois Department of Employment Security (For purposes of this Part, "eligible for unemployment compensation" includes any individual whose wages from employment would be considered in determining eligibility for unemployment compensation under Federal or State unemployment compensation laws); and
- 3) have been employed in an occupation, (one standard occupational classification (SOC) code with one or several employers) or a series of occupations (multiple SOC codes) with the same employer, for at least three (3) years and have either been terminated or laid off from that

B) the applicant must have been unemployed for at least twenty-six (26) weeks and have completed one month of documented job search through the Job Service.

b) To be eligible under Section 301(a)(1)(B) of the Act, applicants must have been terminated or received a notice of termination of employment, as a result of any permanent closure of, or any substantial layoff (as defined in 56 Ill. Adm. Code 2600.20) at, a plant, facility or enterprise within the five (5) years preceding application.

c) To be eligible under Section 301(a)(1)(C) of the Act, applicants must:

- 1) have been unemployed for fifteen (15) or more of the twenty (20) weeks prior to application; and,
- 2) have been employed in an occupation, (one SOC code with one or several employers) or a series of occupations (multiple SOC codes) with the same employer, for at least three (3) years and have either been terminated or laid off from that occupation within the five (5) years preceding application or have received notice of impending layoff/termination; and either,

A) the occupation(s) which meet the criteria specified in subsection(c)(2) above must have a projected rate of employment growth that is less than the overall projected rate of employment growth for the State or SDA/SSA as shown in the "Growth Rate by SOC Code For: State of Illinois State Employment Change 1986-2000", issued 1990; or

B) the applicant must have been unemployed for twenty-six (26) weeks and have completed one month of

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documented job search through the Job Service.

- d) Eligibility under Section 301 (a)(1)(D) of the Act is limited to applicants who:

- 1) were self-employed (including farmers, ranchers, professionals, independent tradespeople and other business persons) and presently are unemployed as a result of one of the following:

- A) natural disasters such as hurricane, tornado, storm, flood, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snow storm, drought, fire, explosion, or other catastrophe, or;

- B) general economic conditions in the community in which they reside as evidenced by one or more of the following:

- i) failure of one or more businesses to which the self-employed individual supplied a substantial proportion of products or business;
- ii) failure of one or more businesses from which the self-employed individual obtained a substantial proportion of products or services;
- iii) substantial layoff(s) from, or permanent closure(s) of, one or more plants or facilities that support a significant portion of the state or local economy;
- iv) depressed price(s) or market(s) for the article(s) produced by the self-employed individual; or
- v) levels of unemployment in the local areas that meet or exceed national percentages.

- 2) are self-employed (including farmers, ranchers, professionals, independent tradespeople, and other business persons) who are in the process of going out of business as evidenced by one or more of the following:

- A) the issuance of a notice of foreclosure or intent to foreclose;
- B) the failure of the farm, ranch or business to return

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a profit during the preceding twelve (12) months;

- C) the entry of the self-employed individual into bankruptcy proceedings;
- D) the inability to make payments on loans insured by tangible business assets;
- E) the inability to obtain capital necessary to continue operations; or
- F) a debt to asset ratio sufficiently high to be indicative of the likely insolvency of the farm, ranch or business, or

- 3) are family members, farmhands, or ranchhands of individuals identified in subsections (d)(1) and (2) above, to the extent that their contribution to the farm, ranch, or business constitutes a minimum of one year full-time work in the farm, ranch or business.

Occupational Information Data

- e) Occupational Information Data
 - 1) The series of occupations which an applicant has held must be assigned a title and code in accordance with the SOC coding system provided in the 1980 "Standard Occupational Classification Manual" (issued by the U.S. Department of Commerce, Office of Federal Statistical Policy and Standards and published by the U.S. Government Printing Office). The descriptions of job duties provided by the applicant shall be used to determine the applicable title and code.

- 2) The "Growth Rate by SOC Code For: State of Illinois State Employment Change 1986-2000", issued 1990, shall be used for purposes of eligibility determination. This SOC code growth rate information shall be transmitted to grantees to be used as a basis for determining the growth rate of an applicant's occupation(s). To meet the growth rate test the applicant's occupation(s) must have an employment growth rate equal to or less than the State average growth rate provided in this document.

- 3) Some low growth SOC codes provided in the regional (SDA) sort may not be present in the statewide sort. In instances when a grantee finds it more advantageous to use information from the regional sort (SDA), that information (low growth SOC codes) must be added to the grantee's title plan on the JTPA-II system. Requests for adding low growth

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SOC codes to a title plan shall be submitted in writing to the substate grantee's program manager.

- 4) The growth rate of each occupation in the applicant's series of occupations must be included in the participant record.
- f) Up to five percent (5%) of the Title III participants may be enrolled for program services on an annual basis as displaced homemakers (as defined in 56 Ill. Adm. Code 2600.20) if the substate grantee has provided for such in its job training plan. If a substate grantee is having difficulty meeting appropriate expenditure levels it may petition the Department for permission to expand the service window to serve up to ten percent (10%) eligible displaced homemakers by contacting their program manager.
- g) A substate grantee may issue to any eligible dislocated worker who has applied for the retraining/services under Economic Dislocation and Worker Adjustment Assistance (EDWAA), a certificate of continuing eligibility.
 - 1) Such a certificate of continuing eligibility:
 - A) shall be effective for periods not to exceed one hundred four (104) weeks;
 - B) shall not include any reference to any specific amount of funds;
 - C) shall state that is is subject to the availability of funds at the time any such training services are to be provided; and,
 - D) shall be non-transferable (between individuals or states).
 - 2) The following information shall be included on the face of the certificate:
 - A) client name,
 - B) social security number,
 - C) application date,
 - D) certificate expiration date, and
 - E) substate grantee's identification number.

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- 3) Certificates may be used by an eligible dislocated worker to seek out and arrange their own training with service providers approved by the substate grantee. Substate grantees shall ensure that records are maintained showing to whom such certificates have been issued, the dates of issuance and the ultimate disposition of such certificates.
- 4) When grantees issue a certificate to an eligible dislocated worker the applicant file must contain documentation for the eligibility determination including an application and a copy of the certificate. The applicant record must be entered on the JTPA-II MIS and appropriately recorded as certificate holder.
- 5) When grantees or service providers redeem certificates, copies of original documentation from the applicant file must be retrieved from the issuing agency, reviewed, and included in the participant file for persons who are redeeming certificates. If, at the time a person presents a certificate for redemption, more than forty-five (45) days have elapsed since the certificate was issued or if the certificate is being redeemed by a different substate grantee, applicant characteristics will have to be updated on a new application and certificate redemption will be checked as eligibility reason on the application.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Industrial Training Program
- 2) Code Citation: 56 Ill. Adm. Code 2650
- 3) Section Numbers: Proposed Action:
2650.50 Amendment
- 4) Statutory Authority: Implementing Section 46.19 a(1) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, pars. 46.19 a(1) and 46.42).

5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will delete the audit requirement under Subpart C of the "Industrial Training Program" rules. In addition to department funds, secondary and post-secondary education institutions receive funds through the Illinois Community College Board or through federal sources. Therefore, these institutions are already required to complete an annual audit, making the department's audit a duplication and an unnecessary burden on grantees.

6) Will these proposed amendments replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Do these proposed amendments contain incorporations by reference? No.

9) Are there any proposed amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1989, ch. 85, par. 2203).

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the Illinois Register to the following:

Mr. John D. Taylor, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th floor
Springfield, Illinois 62701
(217) 782-6136

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 4, 1990.

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- B) Types of small businesses and small municipalities affected: Not-for-profit secondary and post-secondary education institutions.
- C) Reporting, bookkeeping or other procedures required for compliance: This rulemaking serves to delete the audit requirements of 47 Ill. Adm. Code 1.130. The department will still reserve the right to conduct special audits as necessary.
- D) Types of professional skills necessary for compliance: Not applicable.

The full text of the Proposed Amendments begins on the next page:

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- a) Audits - The Department reserves the right to conduct special audits at any time during normal working hours of funds expended under Department grants (e.g., evidence of fraud or abuse).
- b) For the purpose of Subparts B and C of this Part, the following provisions specified in 47 Ill. Adm. Code 1.30, 1.80, 1.90, 1.100, 1.110, 1.120, and 1.140 are applicable. In addition, for the purpose of Subpart C only, the following provisions specified in 47 Ill. Adm. Code 1.40, and 1.60, and 1.139 are applicable.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2650

INDUSTRIAL TRAINING PROGRAM

SUBPART A: GENERAL REQUIREMENTS

Section	Purpose
2650.10	Definitions
2650.20	Eligible Applicants
2650.30	Allowable Costs
2650.40	Grant Administration Requirements
2650.50	Nondiscrimination
2650.60	Selection for Funding (Recodified)
2650.70	Allowable Costs (Recodified)
2650.80	Grant Administration Requirements (Recodified)
2650.90	Nondiscrimination (Recodified)
2650.100	

SUBPART B: INDUSTRIAL FIRMS AND MAJOR EMPLOYER APPLICANTS

Section	Application Procedures
2650.110	Application Documentation
2650.120	Application Evaluation
2650.130	Selection for Funding
2650.140	

SUBPART C: SECONDARY AND POST-SECONDARY EDUCATION INSTITUTION APPLICANTS

Section	Application Procedures
2650.210	Application Documentation
2650.220	Application Evaluation
2650.230	Selection for Funding
2650.240	Reporting Requirements
2650.250	

AUTHORITY: Implementing Section 46.19a(1) and authorized by Section 46.42 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, pars. 46.19a(1) and 46.42).

SOURCE: Adopted at 11 Ill. Reg. 11642, effective June 29, 1987; recodified at 13 Ill. Reg. 15386; emergency amendments at 13 Ill. Reg. 16126, effective September 27, 1989, for a maximum of 150 days; emergency expired February 24, 1990; amended at 14 Ill. Reg. 5075, effective March 20, 1990; amended at 14 Ill. Reg. _____, effective _____.

Section 2650.50 Grant Administration Requirements

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: RECORDS OF COMMITTED PERSONS2) Code Citation: 20 Ill. Adm. Code 1073) Section Numbers: 107.145
Proposed Action:
Add4) Statutory Authority: Implementing and authorized by Sections 3-2-2 and 3-6-3 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2 and 1003-6-3, as amended by P.A. 86-1373, effective September 10, 1990).5) A Complete Description of the Subjects and Issues Involved: A new Section is being added to provide for the award of educational good conduct credits in accordance with P.A. 86-1373.6) Will this proposed rule replace an emergency rule currently in effect?
Yes7) Does this rulemaking contain an automatic repeal date? Yes
X No8) Does this proposed amendment, contain incorporation by reference? No.9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: Not applicable; this rulemaking does not create or expand any State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

William H. Craine, Ph.D., Deputy Director
 Illinois Department of Corrections
 1301 Concordia Court
 P. O. Box 19277
 Springfield, Illinois 62794-9277

All written comments received within 45 days of the date of this publication will be considered.

12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

The full text of the Proposed Amendment is identical to the Emergency Amendment appearing on page 20076 of this issue of the Illinois Register:

CRIMINAL JUSTICE INFORMATION AUTHORITY

NOTICE OF PROPOSED RULES

1) Heading of the Part: Fees for Processing Requests for Conviction Information2) Code Citation: 20 Ill. Adm. Code 15703) Section Numbers:
1570.10 New Section
1570.20 New Section
1570.30 New Section
1570.40 New Section
1570.50 New Section
1570.60 New Section4) Statutory Authority: Ill. Rev. Stat., 1989, ch. 38, par. 1601 et seq.5) A complete description of the subjects and issues involved: Pursuant to the Illinois Uniform Conviction Information Act (Public Act 85-922, effective January 1, 1991), these rules establish the form and manner for a criminal justice agency other than the Department of State Police to assist a person who requests conviction information and the maximum fee that may be charged and assessed for processing such a request.6) Will this proposed rulemaking replace an emergency rule currently in effect? No.7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed rule contain incorporations by reference?

No

9) Are there any other amendments pending on this part? No10) Statement of Statewide Policy Objectives: These rules are being proposed to establish uniform procedures by which criminal justice agencies other than the Department of State Police agencies may assist a person who requests conviction information, pursuant to the Illinois Uniform Conviction Information Act, and to inform such agencies of the criteria that will be used to determine the maximum fee they may charge for processing a request. In addition, these rules are being formulated, consistent with the Act, to encourage the use of fingerprint-based requests for conviction information in order

CRIMINAL JUSTICE INFORMATION AUTHORITY

NOTICE OF PROPOSED RULES

to increase the accuracy and completeness of the information provided.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested person may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Paul Fields
General Counsel
Illinois Criminal Justice Information Authority
120 S. Riverside Plaza
Chicago, IL 60606-3997

- 12) Initial Regulatory Flexibility Analysis:

These proposed rules do not affect small businesses.

The full text of the Proposed Rules begins on the next page:

CRIMINAL JUSTICE INFORMATION AUTHORITY

NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
CHAPTER III: ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

PART 1570
FEES FOR PROCESSING REQUESTS
FOR CONVICTION INFORMATION

Section	Purpose and Authorization
1570.10	Definitions
1570.20	Form and Manner for Assisting in the Processing of Conviction Information
1570.30	Cost Criteria for the Fee to be Charged
1570.40	Fee Determination
1570.50	Notification of Fee Amount
1570.60	

AUTHORITY: Implementing and authorized by the Illinois Uniform Conviction Information Act (Ill. Rev. Stat., 1989, ch. 38, par. 1601 et seq.).

SOURCE: Adopted at ___ Ill. Reg. ___, effective ___, 1991.

Section 1570.10 Purpose and Authorization

Pursuant to the Illinois Uniform Conviction Information Act (Ill. Rev. Stat., 1989, ch. 38, par. 1601 et seq.), the Illinois Criminal Justice Information Authority is charged with the responsibility of establishing the form, manner and maximum fee that criminal justice agencies other than the Department of State Police may charge for assisting in the processing of requests for conviction information under the Act. These rules describe the procedure to be followed by a criminal justice agency in processing a request for conviction information under the Act and the method for establishing the fee to be charged for providing such assistance.

Section 1570.20 Definitions

As used in this Part, the terms used herein have the meaning ascribed to them in the Illinois Uniform Conviction Information Act. In addition, unless the context otherwise requires, the following terms have the meaning ascribed to them herein:

"Authority" means the Illinois Criminal Justice Information Authority.

CRIMINAL JUSTICE INFORMATION AUTHORITY

NOTICE OF PROPOSED RULES

"CIR Form" means the Conviction Information Request Form adopted by the Department of State Police (20 Ill. Adm. Code 1215) for requesting information under the Illinois Uniform Conviction Information Act.

"Individual record subject" means the person whose fingerprints are being taken pursuant to a request to obtain conviction information under the Illinois Uniform Conviction Information Act.

Section 1570.30 Form and Manner for Assisting in the Processing of Conviction Information

A) A criminal justice agency that assists in the processing of criminal conviction information requests pursuant to the Illinois Uniform Conviction Information Act shall do so as follows:

- 1) Provide such assistance, at a minimum, during its regular business hours, Monday through Friday, excluding holidays.
- 2) Verify the identity of the individual record subject. In making this verification, the agency shall require at least two forms of identification, one of which shall be a photograph identification. Acceptable photographic identification shall be of a nature that cannot easily be forged, such as valid passports or driver's licenses, identification cards issued by the Secretary of State, or military or other photographic identification of a similar reliability.
- 3) After verification of the identity of the individual record subject, the personnel of the criminal justice agency shall fingerprint the record subject on a CIR Form. It shall be the responsibility of the requester to obtain such form from the Department of State Police.
- 4) The criminal justice agency shall review the CIR Form to verify that it is accurately completed, as appropriate, by the requester, in conformance with the requirements of the Department of State Police.
- 5) The criminal justice agency may charge the requester a fee pursuant to Section 1570.40.
- 6) The criminal justice agency shall return the CIR Form to the requester, who shall be responsible for mailing it to the Department of State Police.

CRIMINAL JUSTICE INFORMATION AUTHORITY

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- B) A local criminal justice agency that does not assist in processing a request for conviction information pursuant to the Illinois Uniform Conviction Information Act shall inform the requester that the conviction information sought can be obtained directly from the Department of State Police at the following address or phone number:

Illinois State Police
Bureau of Identification
260 North Chicago St.
Joliet, Illinois 60431
Telephone number: (815) 740-5160

Section 1570.40 Cost Criteria for the Fee to be Charged

A) The Authority shall establish the maximum fee that may be charged by criminal justice agencies other than the Department of State Police for assisting in the processing of requests for conviction information made pursuant to the Illinois Uniform Conviction Information Act. This fee shall be based on a reasonable estimate of the actual costs to participating criminal justice agencies throughout the state to comply with these rules.

B) In establishing the maximum fee that a criminal justice agency other than the Department of State Police may charge, the Authority shall consider the following criteria:

- 1) Personnel Costs. The fee charged shall include all personnel costs necessary to assist in the processing of the request forms. Such costs shall include time allocated for:
 - a) Giving instructions to the requester,
 - b) Fingerprinting the individual record subject,
 - c) Reviewing the CIR form,
 - d) Processing the fee, and
 - e) Supervising and training personnel to comply with these rules.
- 2) Tangible Costs. The fee charged shall include all expenses incurred by a criminal justice agency other than the Department of State Police which are directly attributable to assisting in the processing of requests for conviction information. Such costs shall include, as may be appropriate, the cost for:

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- a) Fingerprinting materials and supplies such as ink, rollers, cleaning fluids, and towels, and
- b) Telecommunications services.

Section 1570.50 Fee Determination

- A) Pursuant to Section 1570.40, the Authority shall establish the maximum fee for each calendar year by December 10th of the preceding year. In establishing this fee amount, the Authority shall consult with representatives of criminal justice agencies, and representatives of municipal, civic, and business groups to:

- 1) establish a reasonable estimate of the actual costs to participating criminal justice agencies throughout the state to comply with these rules, and
 - 2) determine if there would be an unreasonable negative impact or undue burden placed on requesters of conviction information.
- B) Pursuant to the Illinois Uniform Conviction Information Act, nothing herein shall be deemed to prevent a criminal justice agency from waiving or reducing the fee established pursuant to Section 1570.40.
- C) For the calendar year 1991, the maximum fee established by the Authority that a criminal justice agency other than the Department of State Police may charge and assess under these rules shall be ten dollars (\$10).
- D) A criminal justice agency may presume that the maximum fee, as determined in this section, shall remain constant from calendar year to calendar year unless specifically notified to the contrary by the Authority pursuant to Section 1570.60.

Section 1570.60 Notification of Fee Amount

- A) Within seven working days after the fee has been established for a calendar year, the Authority shall inform the chief executive officer of each criminal justice agency in Illinois of the amount of the fee. However, notice of the fee for a calendar year shall be given no later than December 15th of the preceding calendar year.
- B) Other interested agencies, organizations, and the public shall, upon request, also be entitled to be informed of the amount of the fee set by the Authority. Within 7

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working days of receipt of such a request, the Executive Director of the Authority shall inform the requester of the fee approved by the Authority.

Requests for notification of the fee amount may be made by calling the Authority at (312)793-8550 between 8:30 a.m. and 5:00 p.m. on working days or by writing to:

Executive Director
 Illinois Criminal Justice Information Authority
 120 South Riverside Plaza
 Chicago, Illinois 60606.

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Section 1450.17 allows applicants one year after receiving a passing score on the examination to meet all requirements for licensure.

New Section 1450.19 explains circumstances under which a current license can become inoperative, thus prohibiting the licensee from engaging in licensed activities. Previously a broker or salesperson was allowed to place his license in an "inactive" status while not engaged in Illinois. All references to "inactive broker" and "inactive salesperson" have been eliminated from this rulemaking.

New Section 1450.25 sets forth requirements for brokers wanting to operate a real estate branch office.

Section 1450.30 Corporations and Partnerships has been expanded to cover Limited Partnerships and also sets forth application requirements for corporations and partnerships.

Section 1450.40 Special Accounts (Escrow Accounts) adds requirements for handling of escrow monies, including disputes over the return or forfeiture of these monies.

New Section 1450.55 sets forth standards for written disclosures which an agency is required to make to prospective buyers and sellers of property.

Section 1450.150 Reciprocal Licensure--language was added stating that all requirements for licensure by reciprocity shall be met within one year of the date of original application or the application shall be denied and the fee forfeited.

Section 1450.180 changes the license expiration date for partnerships, corporations and branch offices to October 31 of each even numbered year.

Section 1450.210 Approval of Schools is being repealed. Section 1450.280 includes all standards for the approval of real estate schools.

Section 1450.290 sets forth standards by which the Department may withdraw, suspend or place on probation the approval of a real estate school.

Section 1450.220 Definition of Class Hour and Credit Hour, Section 1450.260 Qualification of Applicants Under 21 Years of Age, and Section 1450.270 on Educational Requirements for Reinstatement of License are being repealed. These subjects are now covered under Sections 1450.10, 1450.11, 1450.12, 1450.15 and 1450.18.

6) Will these proposed amendments replace an emergency amendment currently in effect? No.

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1) Heading of the Part: Real Estate License Act of 1983

2) Code Citation: 68 Ill. Adm. Code 1450

Section Numbers:	Proposed Action:	Section Numbers:	Proposed Action:
1450.10	Amendment	1450.140	Amendment
1450.11	Renumbered	1450.150	Amendment
1450.12	Renumbered	1450.170	Amendment
1450.15	Amendment	1450.180	Amendment
1450.17	Amendment	1450.185	Amendment
1450.18	Amendment	1450.210	Repeal
1450.19	New Section	1450.215	Amendment
1450.20	Amendment	1450.220	Repeal
1450.25	New Section	1450.230	Renumbered
1450.30	Amendment	1450.240	Amendment
1450.40	Amendment	1450.250	Renumbered
1450.50	Amendment	1450.260	Repeal
1450.55	New Section	1450.270	Repeal
1450.60	Amendment	1450.275	New Section
1450.70	Amendment	1450.280	Amendment
1450.80	Amendment	1450.290	New Section
1450.90	Amendment		
1450.100	Amendment		

4) Statutory Authority: The Real Estate License Act of 1983 (Ill. Rev. Stat. 1989, ch.111, pars. 5803-5805, 5808, 5811-5815, 5818-5820, 5822, 5831)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the rewrite of the Real Estate License Act of 1983 pursuant to P.A. 86-925.

Numerous technical, typographical and format changes, as well as renumbering of Sections, were made to improve the organization and clarity of these rules. Section 1450.230 has been renumbered as Section 1450.11 and Section 1450.250 has been renumbered as Section 1450.12.

Sections 1450.11, 1450.12 and 1450.15 are amended to clarify educational requirements for examination and licensure. In Section 1450.15 language was added stating: 1) that all experience shall be obtained prior to sitting for the examination or the examination scores will be null and void and the applicant will be required to retake the examination; and 2) that after three failures of the examination, the applicant will be required to take a refresher course.

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- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? No.
- 9) Are there any other proposed Amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested Persons may submit written comments and views to:

Department of Professional Regulation
Attention: Jean A. Courtney
320 West Washington, 3rd Floor
Springfield, IL 62786
217/785-0800

All comments received within 30 days of this issue of the Illinois Register will be considered. The comments of interested persons who submit a request to comment within 14 days of this issue will be considered if received within 30 days of such request.

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: November 30, 1990
- B) Types of small businesses affected: Licensed real estate agencies and schools.
- C) Reporting, bookkeeping or other procedures required for compliance: Individuals licensed under the Real Estate License Act will be required to comply with provision of this rulemaking. Corporations and partnerships shall be required to renew their license and file an audit and examine special accounts form every 2 years. Brokers will be required to verify a listing of licensees in their employ upon request by the Department. Schools or programs wishing to become approved real estate schools shall file an application with the Department and meet the requirements set forth in Section 1450.280.
- D) Types of professional skills necessary for compliance: Licensed real estate brokers and salespersons.

The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER 6: PROFESSIONS AND OCCUPATIONS

PART 1450

REAL ESTATE LICENSE ACT OF 1983

SUBPART A: GENERAL RULES

Section
1450.10
1450.11

Definitions
Educational Requirement of Broker Applicant Licensed as an Illinois Real Estate Salesperson (Renumbered)
Educational Requirements for a Baccalaureate Degree with a Minor in Coursework in Real Estate (Renumbered)

1450.12

Salesperson and Broker Examinations

1450.15

Applications for Salespersons and Brokers Licenses by Examination

1450.17

Sponsor Card

1450.18

Operating Salespersons and Brokers Licenses

1450.19

Managing Broker Responsibilities

1450.20

Branch Offices

1450.25

Corporations and Partnerships

1450.30

Special Accounts (Escrow Accounts)

1450.40

Disclosure

1450.50

Agency Disclosure Pursuant to Section 18.2 of the Act

1450.55

Employment Contracts

1450.60

Listing Agreements

1450.70

Written Agreements

1450.80

Advertising

1450.90

Discrimination

1450.100

Unworthiness or Incompetence to Act as a Broker or Salesperson

1450.110

Hearings

1450.120

Assumed Name

1450.140

Reciprocal Licensure

1450.150

Rental Finding Services

1450.170

Renewals

1450.180

Granting Variances

1450.185

Procedure to Contest An Automatic Termination

1450.190

Penalties for Criminal Acts

1450.195

Real Estate Recovery Fund

1450.200

SUBPART B: SCHOOL RULES

1450.210

Approval of Schools (Repealed)

1450.215

Home Study/Correspondence Schools

1450.220

Definition of Class Hour and Credit Hour (Repealed)

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- 1450.230 Educational Requirement of Broker Applicant Who is a Licensed Illinois Real Estate Salesperson (Renumbered)
- 1450.240 Class Attendance Requirements ~~Hour Requirements for The Real Estate Transactions Course~~
- 1450.250 Requirements for Minor in Real Estate (Renumbered)
- 1450.260 Qualification of Applicants Under 21 Years of Age (Repealed)
- 1450.270 Educational Requirements for Reinstatement of License (Repealed)
- 1450.275 Recruitment at Test Center
- 1450.280 Application for Approval of Schools
- 1450.290 Withdrawal of Approval
- APPENDIX A Penalties for Criminal Acts (Repealed)

AUTHORITY: Subpart A implementing Section 9 of "Real Estate License Act of 1983" (Ill. Rev. Stat. 1989, ch. 111, par. 5808) and authorized by Section 60(7) of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 60(7)); Subpart B implementing Sections 4(17) and 11 of the Real Estate License Act of 1983 (Ill. Rev. Stat. 1989, ch. 111, par. 5804 and 5811) and authorized by Section 60(7) of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 60(7)).

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 885, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8341, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982; for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982; for a maximum of 140 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; recodified from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 14 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 1450.10 Definitions

As used in this Part:

"Act" shall mean the Real Estate License Act of 1983 (Ill. Rev. Stat. 1989 1985, ch. 111, par. 5801 et seq.).

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"Board" means the Real Estate Administration and Disciplinary Board of the Department of Professional Regulation.

"Class hour" means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through correspondence in a program approved by the Department.

"Commissioner" means the Commissioner of Real Estate of the Department of Professional Regulation.

"Department" means the Department of Professional Regulation.

"Director" means the Director of the Department of Professional Regulation.

"Inactive broker" shall mean a broker who is a resident of Illinois who ceases to maintain a place of business but who desires to preserve his license during a period of time while not engaged as a broker or a salesperson and who pays the fee as described in Section 15 of the Act.

"Inactive salesperson" shall mean a salesperson who is a resident of Illinois who ceases his active engagement in Illinois as a salesperson but who desires to preserve his license and who pays the fee described in Section 15 of the Act.

"License" shall mean and be the same as "certificate of registration with the Department".

"Managing broker" shall mean a broker who has supervisory responsibilities for licensees in a branch office or single office real estate brokerage.

"Principal broker" shall mean a managing broker who has active control of a multi-office real estate brokerage.

"Semester hours" shall be converted into quarter hours at the ratio of 2 semester hours to 3 quarter hours means 15 class hours for each semester hour or 40 class hours for each quarter hour of credit awarded at a university or college.

"Sponsoring broker" shall mean a firm or individual broker (in the case of a sole proprietorship) who employs or contracts for services with the firm's sponsored licensees.

(Source: Amended at 14 Ill. Reg. _____, effective _____.)

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Section 1450.11 Educational Requirements of Broker Applicant Licensed as an Illinois Real Estate Salesperson

a) ~~An applicant for a broker license who is a licensed Illinois real estate salesperson is presumed to have completed the Real Estate Transactions Course, and shall be allowed thirty (30) class hours credit (two (2) credit hours) for any thirty (30) class hours actually earned in real estate courses prior to the publication of this Part. Having received thirty (30) class hours credit as a licensed real estate salesperson, an additional thirty (30) class hours credit cannot accrue by taking the Real Estate Transactions Course.~~

b) ~~Credit toward the ninety (90) class hours of instruction in approved courses are required requirement for broker applicants. Credit shall be given for class hours successfully completed in the following manner:~~

- 1) ~~Thirty (30) class hours credit for upon successful completion of the Real Estate Transactions Course.~~
- 2) ~~15 class hours credit for the Advanced Real Estate Principles. No more than fifteen (15) class hours credit upon successful completion of any of the approved courses listed under subsection (e), below.~~
- 3) ~~15 class hours credit for Contracts and Conveyancing. The Advanced Real Estate Principles Course and the Contracts and Conveyancing Course listed under subsection (e), below, shall be mandatory courses.~~

4) ~~Credit for the remaining 30 class hours may be obtained by completing at least two of the following courses listed: A minimum of any two (2) other fifteen (15) class hour approved courses listed under subsection (e), below, shall be mandatory.~~

e) ~~Credit for the additional sixty (60) class hours for broker qualification shall be allowed upon successful completion of four (4) of the following one (1) credit hour approved courses:~~

- 1) ~~A) Appraisal~~
- 2) ~~B) Property Management~~
- 3) ~~C) Contracts and Conveyancing (mandatory)~~
- 4) ~~D) Financing~~
- 5) ~~E) Sales and Brokerage~~
- 6) ~~F) Farm Property Management~~
- 7) ~~G) Real Property Insurance~~
- 8) ~~H) Advanced Real Estate Principles (mandatory)~~

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b) ~~An applicant for a broker license who is licensed as an Illinois real estate salesperson is presumed to have completed the Real Estate Transactions Course provided that such licensee has not been inactive or nonrenewed for five years or more. Having received 30 class hours credit as a licensed real estate salesperson, an additional 30 class hours credit cannot accrue by taking the Real Estate Transactions Course.~~

d) ~~Each school shall provide adequate time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.~~

e) ~~Attendance of thirty (30) class hours is mandatory in the Real Estate Transactions course designated in 68 Ill. Adm. Code 1450.240, and fifteen (15) class hours is mandatory in courses designated (1) through (9) in subsection (e), above. Credit for absences not to exceed 10% of the mandatory class hours may be made up by attendance at make-up classes as provided in subsection (d), above. Wherever course class hours exceed by 10% or more the mandatory thirty (30) class hours provided in the Real Estate Transactions Course and the fifteen (15) class hours provided in the courses designated in subsection (e), above, credit not to exceed 10% of the mandatory class hours may be given toward absent class hours. Absences in excess of 10% of class hours shall be sufficient cause for failure of the course.~~

(Source: Section 1450.11 renumbered from Section 1450.230, amended at 14 Ill. Reg. _____, effective _____)

Section 1450.12 Educational Requirements for a Baccalaureate Degree with a Minor in Coursework in Real Estate

A "minor in courses involving real estate" as set forth in Section 11 of the Act shall consist of the following: ~~is defined to consist of~~

a) ~~thirty (30) semester credit hours in accounting, law, business law, finance, agriculture, computer science, land economics, real estate principles, and appraisal or related courses;~~

b) ~~with No more than ten (10) semester credit hours shall be granted in any one subject listed in subsection (a) above, counted as applicable in any one (1) of said subjects, and including within said thirty (30) credit hours~~

c) ~~At least six (6) semester credit hours of the 30 semester hours listed in subsection (a) above shall be in courses in real estate principles. Thirty (30) class hours in an approved real estate school may be substituted for six (6) semester credit hours in real estate principles.~~

(Source: Section 1450.12 renumbered from Section 1450.250, amended at 14 Ill. Reg. _____, effective _____)

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Section 1450.15 Salesperson and Broker Examinations

- a) Each applicant for a salesperson's license shall file an application for examination ~~prior to an examination date~~ as determined by the designated testing service. The application shall include:

1) ~~Certification Proof~~ that the applicant is 21 years of age, ~~unless this provision has been waived pursuant to Section 11 of the Act. The minimum age of 21 years shall be waived for any person seeking a license as a real estate salesperson who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by the Department (Section 11 of the Act).~~ For the purposes of this Section, 48 semester hours shall be determined to meet the requirements of Section 11 of the Act.

2) ~~Certification of graduation from high school or its equivalent (e.g., GED). Proof that the applicant has completed a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent authority in another jurisdiction or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education or an equivalent authority in another jurisdiction.~~

3) The required fee specified in Section 15 of the Act;

4) Proof of one of the following:

A) ~~Currently admitted Admission~~ to practice law by the Supreme Court of Illinois;

B) Completion of at least 30 class hours of instruction in real estate courses approved by the Board in accordance with ~~Section 1450.290(d)(2)(A) as specified in Section 1450.220~~ of this Part;

C) Completion of a correspondence course approved by the Board in accordance with ~~as specified in~~ Section 1450.215 of this Part; or

D) Evidence of receiving a baccalaureate degree from a college or university with a minor in coursework in real estate as defined in Section 1450.12 including at least a minor course involving real estate or related material from a college or university approved by the Board as specified in Section 1450.250 of this Part.

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- b) ~~Applicants who have completed the instruction described in subsection (b) above after the final filing date for an examination will be permitted to submit each proof at the time of the examination, subject to the late fee and late proof procedures established by the testing service designated by the Department.~~

- b) Each applicant for a broker's license shall file an application for examination ~~prior to an examination date~~ as determined by the designated testing service. The application shall include:

1) Certification Proof that the applicant is 21 years of age;

2) ~~Certification of graduation from high school or its equivalent (e.g., GED). Proof that the applicant has completed a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent authority in another jurisdiction or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education or an equivalent authority in another jurisdiction.~~

3) The required fee specified in Section 15 of the Act;

4) Proof of one of the following:

A) ~~Currently admitted Admission~~ to practice law by the Supreme Court of Illinois; or

B) Completion of at least 90 hours of instruction in real estate courses approved by the Board in accordance with ~~as specified in~~ Section 1450.11 1450.220 of this Part; or

C) Completion of a correspondence courses approved by the Board in accordance with ~~as specified in~~ Section 1450.215 of this Part; or

D) Evidence of receiving a baccalaureate degree from a college or university with a minor in coursework in real estate as defined in Section 1450.12 including at least a minor course involving real estate or related material from a college or university approved by the Board as specified in Section 1450.250 of this Part.

- 5) ~~Applicants individuals applying for licensure based upon proof of either subsection (B), (C), or (D) as outlined in Section 1450.15(c)(4) above shall submit proof of one year of the last three years of active practice as a licensed salesperson.~~

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- A) ~~This~~ Proof of active practice shall be in the form of a verification of employment/experience certification on a form provided by the Department.
- B) If an applicant sits for the examination prior to meeting the experience requirement, the examination scores shall be null and void and the applicant shall be required to retake the examination.
- C) Applicants who have completed the instruction described in subsection (a)(4)(B) and (c)(4)(B) above after the final filing date for an examination will be permitted to submit such proof at the time of the examination, subject to the late fee and late proof procedures established by the testing service designated by the Department.
- d) *If an applicant has failed an examination 3 times, the applicant must successfully complete a refresher course or its equivalent approved by the Board in order to be readmitted to sit for the examination (Section 12 of the Act).*
- 1) The refresher course must be completed after the third failure.
 - 2) *For the purposes of this Section, the fourth attempt shall be the same as the first (Section 12 of the Act).*
- e) Pursuant to Section 12 of the Act, the 5 year time period does not apply to education earned as part of a baccalaureate degree program in accordance with Section 1450.12 of this Part.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.17 Applications for Salespersons and Brokers Licenses by Examination

- a) Each applicant for a salesperson's license shall ~~must~~ submit to the Department:
- 1) An application which is signed by the applicant and on which all questions have been answered;
 - 2) The ~~Fee of \$29~~ as required by Section 15 of the Real Estate License Act of 1983;
 - 3) Proof of successful completion of the examination authorized by the Department; and
 - 4) A properly completed sponsor card issued in accordance with Section 1450.18(b).

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- b) Each applicant for a broker's license shall ~~must~~ submit to the Department:
- 1) An application which is signed and on which all questions have been answered;
 - 2) The ~~Fee of \$64~~ as required by Section 15 of the Real Estate License Act of 1983;
 - 3) Proof of successful completion of the examination authorized by the Department; and
 - 4) A properly completed sponsor card form issued in accordance with 1450.18(b).
 - 5) A properly completed consent to audit and examine special accounts form.
- c) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with the Department and to meet all of the requirements for licensure.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.18 Sponsor Card

- a) Authority
- 1) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored individual to engage in the practice of real estate.
 - 2) The sponsored individual holding a temporary permit may practice real estate for a maximum of 45 days only under the supervision of the sponsoring broker (or the designated managing broker) named on the sponsor card.
- b) Circumstances of Issuance
- A licensed real estate broker (or the designated managing broker) shall issue a sponsor card to an individual only in the following instances:
- 1) Upon presentation of an ~~unsubstantiated~~ a real estate examination pass score report which states that the broker may issue a sponsor card; ~~or~~

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- 2) Upon presentation of an original license endorsed by the broker by whom the licensee was previously employed or with whom the licensee was previously associated;

- 3) Upon presentation of a license expired for less than 5 years.

c) Issuance Procedures

Upon issuance of a sponsor card, the issuing broker shall, within 24 hours of issuance, submit the following to the Department by certified or registered mail return receipt requested:

1) Licensees

- A) a copy of the sponsor card; and
- B) appropriate sponsor card fee as set forth in Section 15 of the Act; and
- C) the properly endorsed real estate license and pocket card of the sponsored licensee; or
- D) an expired ~~or inactive~~ license of the sponsored licensee along with the appropriate ~~renewal~~ fee ~~and all-lapsed-renewal-fees~~ as set forth in Section 15 (A)(3) or (B)(3) of the Act and proof of education, if applicable, other documentation as required by Section 13.2 of the Act; or

- E) the pocket card of the licensee and a sworn statement by the licensee explaining why the license is not submitted. If neither the license nor pocket card is available, the status of the license shall be verified by the Commissioner of Real Estate or his designee.

2) Salesperson Applicant

- A) a copy of the sponsor card;
- B) ~~an unencumbered~~ a real estate pass score report which states that the broker may issue a sponsor card; and
- C) other documentation as required by Section 1450.17(a).

3) Broker Applicant

- A) a copy of the sponsor card;
- B) ~~an unencumbered~~ a real estate pass score report which states that the broker may issue a sponsor card; and

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- C) other documentation as required by Section 1450.17(b).

- 4) ~~D) Should the broker applicant be found not to have completed all the required experience-for-licensee requirements including experience,~~ his sponsor card shall be void, he shall be considered to have never been authorized to practice, and he shall be subject to disciplinary action in accordance with Section 18 of the Act and Section 1450.305 ~~1450.120~~ of this Part.

- 4) 5) The broker issuing the sponsor card shall retain a copy of such card until such time as the license is received and properly displayed in the broker's office.

- d) The Department shall, within 30 days of receipt of the sponsor card, appropriate fees and appropriate documentation, issue a license to the sponsored licensee, or notify the ~~issuing broker~~ applicant why such license cannot be issued.

e) Expiration of the Sponsor Card

A sponsor card shall be valid for a period of 45 days from issue date unless extended for an additional 45 days by the Department for good cause.

- 1) Good cause shall be limited to those instances where the Department has unnecessarily delayed the processing of a license.

- 2) The request for extension shall be considered granted only upon written notice thereof from the Department.

f) Broker/Sole Proprietor

- 1) A licensed real estate salesperson or attorney who has passed the real estate broker examination may practice as a sole proprietor, provided that prior to doing business as a sole proprietor the prospective broker submits to the Department the following by certified or registered mail return receipt requested:

- A) a copy of the sponsor card, issued to himself; and
- B) the appropriate licensure fees in accordance with Section 15 of the Act; and
- C) ~~an unencumbered~~ a real estate examination pass score report, which states the broker may issue a sponsor card.

- D) a completed consent to audit and examine special accounts form.

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- 2) Said prospective broker shall not sponsor or employ any licensee, or manage a partnership or corporation until such time as he is issued a real estate broker license.
- 3) A licensed real estate broker may practice as a sole proprietor or manage a partnership, ~~or~~ corporation or branch office provided that prior to doing business the broker complies with the licensing requirements for partnerships, ~~or~~ corporations or branch offices set forth in Sections 1450.25 or 1450.30 and submits the following to the Department by certified or registered mail return receipt requested:

- A) a copy of the sponsor card issued to himself; and
- B) the appropriate sponsor card fee as set forth in Section 15 of the Act; and
- C) his properly endorsed real estate broker license and pocket card, or
- D) an expired ~~or inactive~~ broker license along with the appropriate ~~restoration fee and all lapsed renewal fees as~~ set forth in Section 15 (b)(3) of the Act, and proof of education, if applicable, ~~other documentation~~, as required by Section 13 of the Act, or
- E) the pocket card and a sworn statement by the licensee explaining why the license is not submitted. If neither the license nor the pocket card is available, the status of the license shall be verified by the Commissioner of ~~Real Estate~~ or his designee.

- 4) The broker shall retain a copy of such sponsor card until such time as the license is received.

- 5) The Department shall within 30 days of receipt of the sponsor card, appropriate fees and documents, issue a license to the broker or shall notify the broker why such license cannot be issued (for example, if additional documentation is required or the documents are completed incorrectly).

g) Termination

- 1) Upon termination of a licensee, a managing broker shall immediately;
- A) Endorse the licensee's license as provided for on that document;

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- B) Submit a photocopy of the endorsed license to the Department within 24 hours of termination by certified mail return receipt requested;
- C) Retain a copy of the endorsed license at least until the expiration date printed on that license; and
- D) Give the original endorsed license to the licensee.
- 2) Once a license has been endorsed, the licensee is prohibited from practicing real estate until such time as he is issued a properly completed sponsor card.

- h) Display. Each licensee shall carry either a properly issued sponsor card or a valid pocket card at all times and shall display same upon demand.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.19 Inoperative Salespersons and Brokers Licenses

- a) "Inoperative" means a status of licensure where the licensee holds a current license under this Act, but that licensee is prohibited from engaging in licensed activities because the licensee is unsponsored or the license of the broker with whom the licensee is associated or by whom he is employed is currently expired, revoked, suspended, or otherwise rendered invalid pursuant to this Act (Section 4(11) of the Act).

- b) Pursuant to Section 12.1(b) of the Act, the license of any individual acting as a salesperson whose association with a broker is terminated shall automatically become inoperative immediately upon such termination unless the licensee accepts employment or becomes associated with a new broker or in the case of a broker sponsoring himself.

- c) For the purposes of Section 12.1(b) of the Act, salesperson shall be defined as any licensee acting in the capacity of a salesperson whether holding a salesperson or broker's license.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1450.20 Managing Broker Responsibilities

- a) The managing broker shall comply with the requirements of Section 13 of the Act. ~~Each real estate broker actively engaged in the real estate business~~

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~~shall maintain a definite office or place of business within this state for the transaction of real estate business, shall conspicuously display an identification sign of adequate size and visibility on the outside of his office and shall conspicuously display his certificate in his office or place of business and also the certificates of all brokers and salespersons associated with him or employed by him at that location (Section 13 of the Act). (Ill. Rev. Stat. 1985, Ch. 111, Par. 5813)~~

- b) ~~Branch office~~ At the time of application ~~is made for a branch office license, or at the time of renewal is made of a branch office license~~, the principal broker shall inform the Department of the name and certificate number of the manager of the branch office. The name of the branch office shall be the same as that of the main office, or shall clearly delineate the branch office's relationship with the main office (e.g., affiliated with, associated with, subsidiary of). The branch office ~~said~~ manager shall ~~must~~ have an active license as a broker. The manager's ~~his~~ primary occupation shall be the supervisor of that office only. The name of the manager of the branch office shall appear on the branch office license. Nothing in this Section shall relieve the principal broker of any legal responsibility for the overall supervision of branch offices.

- c) The managing ~~principal~~ broker shall be responsible ~~may--delegate--the responsibility for issuing sponsor cards to a managing broker.~~

- d) Upon written request ~~by the principal broker~~ within ten days after the loss of a managing broker ~~manager~~, the Department shall issue a written authorization to allow ~~temporary permit allowing~~ the continuing operation of a ~~theretofore properly licensed office or branch office~~, provided that the principal broker or representative under a duly executed power of attorney assumes responsibility, in writing, for the operation of the ~~said~~ office and agrees to personally supervise the operations. ~~of said office~~ No such authorization permit shall be valid for more than thirty days unless extended by the Department for good cause ~~shown~~ and upon written request by the principal broker. Good cause includes such circumstances as sales under contract pending closing, loss of livelihood for sales associates, and undue hardship caused to sellers.

- e) When a managing broker receives a renewal application from the Department for another licensee, he shall ~~must~~ notify the licensee of such receipt, personally within ~~seven~~(7) days ~~after receipt~~ or by certified or registered mail within ~~ten~~(10) days ~~after receipt~~. Such notice shall also inform the licensee that the unprocessed renewal form will be returned to the Department, by the broker, ~~ten~~(10) days after the date of the notice.

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- f) All managing brokers shall ~~notify~~ ~~must advise~~ the Department on business letterhead of any change of business address within 24 hours of any change. The Department shall, upon receipt, issue a change of address application which shall be returned within 10 days to the Department along with the firm license and ~~with all current business licenses for the broker and individuals in his employ and the appropriate fees specified in Section 15 of the Act.~~ Change of address is required for licensed corporations, partnerships and/or branch offices. A license returned to the Department for the reason described in this subsection shall remain in good standing until such time as the new licenses are issued and in the possession of the licensee.

- g) The Department will honor the Order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a deceased broker or a broker who has been adjudicated disabled, who was a sole proprietor, until the real estate brokerage ~~estate~~ is closed but not to actively engage in the brokerage business as defined in Section 4(5) of the Act.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.25 Branch Offices

- a) Brokers wanting to operate a real estate branch office, shall, in accordance with Section 13 of the Act, file an application with the Department, on forms provided by the Department, together with the following:

- 1) A properly completed Consent to Examine and Audit Special Accounts Form.
- 2) The name and license number of the manager of the branch office; and
- 3) The fee required by Section 15 of the Act.

- b) Upon receipt of the above documents and review of the application, the Department shall issue a license authorizing the Broker to engage in real estate activities at that branch office or shall notify the applicant of the reason for the denial of such license.

- c) The name of the branch office shall be the same as that of the main office, or shall clearly delineate the branch office's relationship with the main office (e.g., affiliated with, associated with, subsidiary of).

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- d) The broker in charge of a branch office shall submit sponsor cards for himself and brokers and salespersons in his employ only AFTER receipt of the branch office license.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1450.30 Corporations, and Partnerships, and Limited Partnerships

a) Registration requirements

- 1) ~~No partnership or corporation shall be granted a license or engage in the business or capacity, either directly or indirectly, as a real estate broker, unless every member or officer of such partnership or corporation who actively participates in the brokerage business as defined in Section 4(4) of the Act of such partnership or corporation holds a license as a real estate broker and unless every person who acts as a broker for such partnership or corporation holds a license as a real estate broker, and unless every person who acts as a salesperson for such partnership or corporation holds a license as a real estate salesperson (Section 3).~~
- 2) ~~Stenographic, clerical, or office personnel not directly engaged in the practice of real estate brokerage as defined in Section 4(4) of the Act are not required to be licensed.~~
- b) ~~No partnership or corporation shall be licensed to conduct a brokerage business where an individual salesperson or group of salespersons owns or directly or indirectly controls more than 49% of the shares of stock or other ownership interest in said partnership or corporation.~~
- e) ~~Each corporation and partnership licensed under the Act shall, upon original application and at the time of renewal, file with the Department, on forms issued by the Department, a listing of names and addresses of each person who has an ownership interest in said corporation or partnership in excess of 10% of the entire interest therein, and the name and address of each officer, director, or partner.~~
- a) ~~Persons who desire to practice real estate in this State in the form of a partnership or corporation, shall, in accordance with Section 3 of the Act, file an application with the Department, on forms provided by the Department, together with the following:~~
 - 1) If an assumed name is to be used, a copy of the assumed name certificate;

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- (2) A Federal Employer Identification Number (FEIN). If a FEIN has not been issued, a photocopy of the FEIN application;
- (3) A properly completed consent to examine and audit special accounts form;
- (4) A properly completed real estate corporation/partnership information form;
- (5) The fee required by Section 15 of the Act.
- (6) All requirements for a license to practice as a corporation or partnership shall be met within 1 year of the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, such applicant shall file a new application and fee.
- (7) Corporations, in addition to the above, shall submit the following:
 - A) The name of the corporation and its registered address, a list of all officers, and the license number for each officer who is licensed as a real estate broker;
 - B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the Corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required; and
 - C) All unlicensed officers shall submit with the corporation application affidavits of non-participation. Licensed salespersons ~~are prohibited from submitting~~ cannot be officers of the corporation even if they submit an affidavit of non-participation.
- (8) Partnerships, in addition to the above shall submit the following:
 - A) An application containing the name of the partnership and its business address and the names of all general partners, and the license number of each general partner; and
 - B) An affidavit stating that the partnership has been legally formed.
 - C) Limited Partnerships, in addition to the above shall submit the following:

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- 1) A letter of authority from the Secretary of State's Limited Partnership Department; and
- 2) A listing of all limited partners and their license numbers.

b) Upon receipt of the above documents and review of the application, the Department shall issue a license authorizing the partnership or corporation to engage in the practice of real estate or shall notify the applicant of the reason for the denial of such license.

c) No corporation shall be granted a license, or engage in the business or capacity, either directly or indirectly, of a real estate broker, unless every officer of such corporation who actively participates in the real estate activities of such corporation holds a license as a real estate broker and unless every employee who acts as a salesperson for such corporation holds a license as a real estate broker or salesperson.

d) No partnership shall be granted a license, or engage in the business or serve in the capacity, either directly or indirectly, of a real estate broker, unless every general partner in such partnership holds a license as a real estate broker, and unless every employee who acts as a salesperson for such partnership holds a license as a real estate broker or salesperson (Section 3 of the Act). Licensed salespersons who have an ownership interest in a partnership shall only be limited partners.

e) Stenographic, clerical, or office personnel not directly engaged in the practice of real estate brokerage as defined in Section 4(4) of the Act are not required to be licensed.

f) No corporation shall be licensed to conduct a brokerage business where an individual salesperson or group of salespersons owns or directly or indirectly controls more than 49% of the shares of stock or other ownership interest in the corporation or constitute more than 49% of the directors of the corporation.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.40 Special Accounts (Escrow Accounts)

a) Escrow Monies

- 1) "Escrow monies" means all monies, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. Escrow monies

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include, but are not limited to, earnest monies and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased and for which the security deposit is being held (Section 4 of the Act).

- 2) For purposes of this Section, a sole owner shall be a licensee who has a 100% ownership interest held by the licensee alone or ownership as a joint tenant or tenant by the entirety. Ownership of 100% of the beneficial interest of a land trust by a licensee shall be considered as sole ownership by the licensee.

a) b) Requirements

- 1) Pursuant to Section 18 of the Act, Each brokers who accept escrow monies shall maintain and deposit in a special account, separate and apart from his personal or other business accounts, all escrow monies ~~belonging to~~ others entrusted to him while acting as a real estate broker, ~~or as~~ escrow agent, or as temporary custodian of the funds of others and shall keep same on deposit in such account until the transactions are consummated or terminated, except to the extent that such monies, or any part thereof, shall be disbursed prior to the consummation or termination, in accordance with the ~~agreement~~ written direction of the principals to the transaction or their duly authorized agents.

A) Such account shall be noninterest bearing, unless the character of the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account. (Ill. Rev. Stat. 1985, Ch. 111, Par. 5818)

B) If an interest bearing account is required, the recipient of the interest shall be specifically indicated, in writing, by the principals of the transaction.

- 2) A broker may maintain more than one special account.

3) Such a special account need not be maintained by a broker who does not receive escrow monies ~~belonging to others~~ entrusted to him while acting as a real estate broker, or as escrow agent, or as temporary custodian of the funds of others.

2) Should an interest-bearing account be required, the recipient of the interest must be specifically indicated, in writing, by the principals of the transaction.

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- 4) All escrow monies, interest bearing or non-interest bearing, shall ~~must~~ be placed in a federally insured depository.
- 5) All escrow monies collected by a licensee on behalf of owners pursuant to property management activities shall be placed in a special account. The balance in the special account shall not be less than the liability represented by security deposits which are to be held in the account. These requirements may be waived in writing by the tenants. Such waiver, if included in the lease, shall appear in bold print.

c) Disputes

- 1) In the event of a dispute over the return or forfeiture of any escrow monies held by the broker or if a broker knows there are facts or circumstances which should reasonably cause a broker to know that any party to a transaction contests or disagrees with an anticipated disbursement of escrow monies held by the broker, the broker shall continue to hold the deposit in his special account:

- A) until he has a written release from all parties consenting to its disposition;
- B) until a civil action is filed, by either the broker or one of the parties, to determine its disposition, at which time payment may be made into court;
- C) until the funds are turned over to the Illinois Department of Financial Institutions because of inactivity of the account or inability to locate the parties; or

- 2) In the event of a dispute over the return of escrow monies a broker is authorized to withdraw from his special account such amounts as may be provided for by contract and which are necessary to reimburse the broker for the handling of the escrow monies, including the participation in or filing of any civil action to determine the appropriate disposition of the monies, or to pay any commissions or fees authorized by subsection (i) below.

b) d) Notification and Consent

- 1) Each broker, corporation, and partnership shall, at the time of original application for licensure and at the time of renewal of licensure, on forms provided by the Department, file with the Department the name of the bank(s), savings and loan associations, or other recognized depositories in which each special account is maintained, and the name of each account, and the name(s) of the person(s) authorized to withdraw funds from such accounts, and shall consent on such form to the examination and audit of all accounts by the Department. The bank, savings and loan association

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or other recognized depository shall certify on the form that the information contained therein is correct. A new form shall be executed by the broker and filed with the Department within 10 days of the time of a change of depository, method of doing business, and/or person authorized to make withdrawal and/or opening of additional accounts.

- 2) Any broker who fails to file the required form within the time limit shall be deemed to have demonstrated ~~unworthiness or incompetency to act as a real estate broker in such manner as to have endangered safeguard the interest of the public and is subject to discipline pursuant to Section 18(h)(12) of the Act.~~

e) Authorization. As a condition of licensure, each broker shall authorize the Department to examine each special account opened by him in connection with ~~his being engaged in~~ the broker's real estate business, shall obtain the certification of the bank or savings and loan association to the ~~condition of the~~ special account and shall consent to the examination and audit of the special accounts by a ~~duly authorized representative of~~ the Department. A new authorization shall be filed with the Department with every license renewal application. ~~Such~~ The certification and consent shall be furnished on forms prescribed by the Department.

e) Commingling Prohibited. Each broker shall deposit only funds received in connection with any real estate transaction in a special account designated as a special account and shall not deposit his own personal funds in a special account, except a broker may deposit from his own personal funds, and keep in any special account, an amount sufficient to avoid incurring service charges relating to ~~such~~ the special account. ~~Said~~ The sum shall be specifically documented as being for ~~said purpose~~ service charges and the broker shall have proof available that the amount of his own funds in the special account does not exceed the minimum amount required by the depository to maintain the account without incurring service charges.

e) Time of Deposit. All funds accepted by a broker on behalf of his principals shall be placed ~~into a neutral depository or~~ in the broker's special account, of which the Department has received notice pursuant to subsection (d) ~~(4)~~, above, not later than the next business day following acceptance of the real estate contract. If such funds are received on a day prior to a bank holiday or any other day on which the bank or savings and loan association is closed, such funds shall then be deposited on the next business day upon which the ~~recognized~~ depository is open.

- 1) Branch Office Special Account. If a broker maintains a special account at a branch office, ~~the Department shall~~ receive notice pursuant to subsection (d) above and a separate bookkeeping system shall be maintained in the branch office as set forth in subsection (h) ~~(4)~~, below.

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- 2) No Branch Office Special Account. If a broker does not maintain a special account at a branch office, the broker in charge of the branch office shall deliver or mail such funds received at the branch office to the broker's main office not later than the next business day following acceptance of the real estate contract. The funds received at the main office from a branch office shall be placed in the broker's special account of which the Department has received notice pursuant to subsection (b) (d) above, not later than the next business day following receipt of such funds from the branch office.

(f) h)

Bookkeeping System. Each broker shall maintain, in his office or place of business, a bookkeeping system in accordance with sound accounting principles, and without limiting the foregoing, such system shall consist of at least the following:

- 1) A record book, called a journal, for each special account. Such journal shall show the chronological sequence in which funds are received and disbursed by the broker:
- A) For funds received such journal shall include the date, the name of the party who delivers such funds to the broker, the name of the person on whose behalf such funds are delivered to the broker and the amount of such funds so delivered.
- B) For fund disbursements, such journal shall include the date, the payee, the check number and amount disbursed.
- C) A running balance shall be shown after each entry (receipt or disbursement).

- 2) A ledger or a record book ~~which~~ shall show the receipt and the disbursement of such funds ~~as--same~~ affecting a single particular transaction such as between buyer and seller, or landlord and tenant, or the respective parties to any other relationship. ~~Such~~ The ledger shall include the names of both parties to a transaction, the amount of such funds received by such broker and the date of such receipt. ~~Such~~ The ledger shall show, in connection with the disbursement of such funds, the date thereof, the payee, the check number and the amount disbursed. ~~Such~~ The ledger shall segregate one transaction from another transaction. There shall be a separate ledger or separate section of each ledger, as the broker shall elect, for each of the various kinds of real estate transactions (e.g., lease).

- 3) Each broker shall reconcile, within ten days after receipt of the monthly bank statement, each special account maintained by such broker except where there has been no transactional activity during the

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previous month. Such reconciliation shall include a written work sheet comparing the balances as shown on the bank or savings and loan association statement, the journal and the ledger, respectively, in order to insure agreement between the special account and the journal and the ledger entries with respect to such special account. Each such reconciliation shall be kept for at least three years from the last day of the month covered by such reconciliation.

- 4) A broker may employ a more sophisticated bookkeeping system based on sound accounting principles ~~which utilizes~~ including a system of electronic data processing equipment, that which includes information required by the bookkeeping system set forth in subsection (f)(h)(1), (2), and (3), above.

- 5) A broker may employ ~~for such funds heretofore described in subsection (a)-above~~, a special bookkeeping system for each such special account, provided that the such special account bookkeeping system is in accordance with an agreement between the broker and the principals. ~~It may-see~~ At a minimum, the special bookkeeping system set forth in subsection (f)(h)(1), (2), and (3), above shall be required. ~~(Generally, but not by way of limitation, the bookkeeping system and special account referred to in this subsection are the results of management of real estate or servicing of a real estate account by a broker.)~~

- 6) The Department shall have available for distribution, on request, samples of approved journal, ledger and reconciliation sheets ~~heretofore mentioned~~.

- 7) Pursuant to Section 18(9) of the Act, the broker shall make available to the Department's real estate enforcement personnel during business hours all escrow records and related documents maintained in connection with the practice of real estate.

~~g) i)~~ Disbursements Withdrawal of Funds for Commissions and Fees-

- 1) Commissions and/or fees earned by a broker in any transaction shall be disbursed ~~withdrawn~~ by the broker from the funds deposited in a special account no earlier than the day the transaction is consummated or terminated and not later than the next business day after the transaction is consummated or terminated, or otherwise in accordance with the written direction agreement of all the principals to the transaction.

- 2) Authorized disbursements ~~withdrawals~~ are those which are limited to brokerage--commission--cooperating--brokerage--commission--and

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~~reimbursement of expenses and/or fees paid~~ made on behalf of, and ~~or at~~ the written direction of, all the principals to the transaction.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.50 Disclosure

- a) No licensee shall withhold material information of which he has knowledge and which is not reasonably discoverable by inspection of real estate from any party with whom he is doing business under the Act. This Section shall not be construed to require a licensee to violate his duties under the laws of agency.
- b) No licensee shall accept any finder fees, commissions, discounts ~~or kickbacks~~ or any other compensation from any financial institution, title insurance company or any other person other than a broker ~~licensee~~, without full disclosure in writing of such receipt to all parties to the conveyance of the property transaction.
- c) A licensee shall disclose, in writing, to all parties in that transaction his status as a licensee and any and all interest he or it does have or may have in the real estate constituting the subject matter thereof or in such transaction, directly or indirectly according to the following guidelines:

- 1) On broker yard signs, no disclosure of ownership is necessary ~~on the sign~~, however, ~~but~~ such ownership shall ~~must~~ be indicated on any property data form and disclosed to people responding to the ad or the sign. The term "broker owned" or "agent owned" is sufficient disclosure.

- 2) Only licensees holding inoperative licenses ~~shall~~ may advertise by owner. Inoperative licensees shall comply with the following if advertising by owner:

- 2a) A) On "By Owner" yard signs, inoperative licensees shall ~~must~~ indicate "broker owned" or "agent owned." "By Owner" newspaper ads shall ~~must~~ use the term "broker owned" or "agent owned."

- 2b) If an inoperative licensee runs an ad, for the purpose of purchasing real estate, he shall ~~must~~ disclose in that ad that he is a licensee.

- 4) 3) In addition to subsection (c)(1) and (2), ~~and (2)~~, all advertising shall ~~must~~ comply with the provisions of Section 1450.90.

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- d) *No cause of action shall arise against a licensee for the failure to disclose that an occupant of that property was afflicted with Human Immunodeficiency Virus (HIV) or that the property was the site of an act or occurrence which had no effect on the physical condition of the property or its environment or the structures located thereon (Section 31.1 of the Act). Such acts shall include, but not be limited to murder or suicide. This provision is intended to apply to actions taken by the Department under the Act as well as to all civil actions in Illinois.*

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.55 Agency Disclosure Pursuant to Section 18.2 of the Act

- a) All disclosures shall be made in writing at or before the time of the first significant contact and shall be dated.

- 1) For the agent of a prospective buyer, "significant contact" shall mean the time at which the agent contacts the seller or seller's agent on behalf of one or more prospective buyers concerning the availability, price, condition of or a showing of a particular property or properties. However, if the first such contact is by telephone or in a similar manner, then oral disclosure should be made at that time and confirmed by written disclosure as required by this Section.

- 2) For the agent of a seller, "significant contact" shall mean the following:

- A) the beginning of the showing of real property to the prospective buyer other than at an open house;

- B) the beginning of the preparation of an offer to purchase real property for the prospective buyer; or

- C) the beginning of an agent's prequalifications of a prospective buyer to determine the prospective buyer's financial ability to purchase real estate or the agent's request for specific financial information from a prospective buyer to determine ability to purchase or finance real estate in a particular price range.

- 3) Written disclosure may be provided in person, by mail, telefax, or other similar means sufficient to satisfy the written notice requirement of this Section.

- b) The prospective buyer or seller shall be provided with a copy of the disclosure, and the employing broker shall retain a copy of the disclosure in the employing broker's files.

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- c) Disclosure to a seller can be made through the seller's agent.
- d) The listing office is not required to make disclosure to a prospective buyer unless the listing office has significant contact with the prospective buyer.
- e) The office that holds the listing is not required to ensure that a cooperating office has complied with the disclosure requirements of the Act.
- f) A written disclosure of agency must be made to a prospective buyer even though the licensee or licensee's employing broker has previously entered into a written agreement with the prospective buyer to represent the prospective buyer if the licensee is acting as the agent of the seller in regard to a particular property or transaction in which the prospective buyer is involved.
- g) The written disclosure of agency to the seller or prospective buyer can be a general disclosure and does not need to be site or party specific unless:
- 1) As to a prospective buyer, the licensee is a seller's agent as to some properties and an agent of the buyer in regards to the purchase of other properties.
 - 2) As to a seller the licensee is a subagent or cooperating agent of the seller as to some prospective buyers and an agent of the buyer as to other prospective buyers.
- h) Section 18.2 of the Act does not apply to lease or rental transactions unless the lease or rental agreement includes an option to purchase the real property.
- i) Disclosure of a licensee's interest as a principal in a transaction shall satisfy the agency disclosure requirements of the Act.
- j) A licensee selling real property at auction may make the disclosure required by Section 18.2 of the Act by including that disclosure in advertising or in information sheets distributed to bidders at the time of the auction.
- k) No disclosure of an agency relationship need be made by a licensee when the licensee is merely making a referral of a prospective buyer or seller to another real estate brokerage entity even though consideration or compensation is or may be paid to the referring licensee, unless the licensee has significant contact with the prospective buyer or seller.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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Section 1450.60 Employment Contracts

- a) Every broker who employs salespersons or brokers or is associated with other licensees as independent contractors shall have a written agreement with each such person. The agreement shall be dated, signed by the parties and shall ~~must~~ cover the salient aspects of their relationship, including, but not necessarily limited to, supervision, duties, compensation and termination.
- b) Licensed activity. A broker may continue to make payments directly to a terminated licensee if such payments are pursuant to terms of an employment agreement and such payments are for licensed activity performed while employed by that broker.
- b) ~~c)~~ ~~In-the-event~~ If it is the duty of an employed associated broker to supervise a branch office, the agreement shall ~~must~~ so state and contain the address of the branch office supervised by such employed associated broker. A copy of the agreement shall be kept and available for inspection in the branch office supervised by each employed associated broker.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.70 Listing Agreements

- a) All ~~exclusive~~ listing agreements shall be written and contain the following:
- 1) the list price;
 - 2) the agreed basis or amount of commission and the time of payment;
 - 3) the duration of the contract, clearly set forth;
 - 4) name of broker and seller;
 - 5) identification of property involved (address or legal description); ² and
 - 6) signatures of the parties.
- b) Pursuant to Section 19 of the Act, ~~No~~ licensee shall obtain any written listing agreement ~~contract~~ containing a clause automatically extending the listing period.
- c) Every written listing shall provide that no amendment or alterations in the terms, ~~thereof~~ with respect to the amount of commission or with

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respect to the time of payment of commission shall be valid or binding unless made in writing and signed by the parties ~~therein~~. No licensee shall use Sale Contract forms that change previously agreed commission payment terms unless seller and listing agent agree to such changes in a written memorandum separate from the Sale Contract. Any such Sale Contract forms may state that a commission is to be paid to a named licensee pursuant to a separate agreement.

d) ~~In the event~~ If the terms of the listing agreement are such that seller may not receive the earnest money deposit, in the event of purchaser's default, a statement to this effect shall appear in the listing agreement, in letters larger than those generally used in the listing agreement.

e) Each listing agreement shall clearly state that it is illegal for either the owner or the broker to refuse to display ~~to~~ or to sell to any person because of their race, color, religion, national origin, sex, ~~handicap or physical disability, or familial status.~~

f) Each listing agreement for a residential property of four units or less, which provides for a protection period subsequent to its termination date, shall also provide that no commission or fee will be due and owing pursuant to the terms of the listing agreement if, during the protection period, a valid, written listing agreement is entered into with another licensed real estate broker.

g) A broker may discuss a possible future listing agreement with a seller whose property is listed with another broker only under the following conditions:

- 1) when the seller initiates the contact; or
- 2) when the listing broker upon request fails to provide within 10 calendar days the type and expiration date of the listing agreement between the seller and the listing broker. The request and response shall be in writing and mailed return receipt requested. If the above information is not received within 14 calendar days, the broker may then contact the seller only if this information cannot be obtained from another source of shared broker information.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.80 Written Agreements

a) No licensee shall solicit, accept or execute any contract, ~~writing~~ or other document relating to a real estate transaction which shall contain any blanks to be filled in after signing or initialing such contract, ~~writing~~ or other document.

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b) No licensee shall make any addition to, deletion from or alteration of any signed contract, ~~writing~~ or other document relating to a real estate transaction without the written ~~telex~~ or telegraphic consent or direction from all signatories ~~persons having signed same~~. No licensee shall process any contract, ~~writing~~ or other document that has been altered after being signed, unless each addition, deletion or alteration is signed or initialed by all signatories ~~persons who have signed or initialed such contract, writing, or other document, prior to at the time of such addition, deletion or alteration.~~

c) A true copy of the original or corrected contract, ~~writing~~, or other document relating to a real estate transaction shall be hand-delivered or mailed within 24 hours of the time of signing or initialing such original or correction to the person signing or initialing any such contract, ~~writing~~, or other document.

d) All forms used by licensees intended to become binding real estate contracts shall ~~should~~ clearly set state this ~~forth~~ in the heading in large bold type. No licensee shall use a form designated Offer to Purchase when it is intended that such form shall be a binding real estate contract.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.90 Advertising

a) ~~Except for inoperative licensees selling their own property, the broker's business name (which in the case of a franchise shall include the franchise affiliation as well as the individual firm) shall not be displayed in all real estate advertisement, including but not limited to newspapers as defined by Section 4(14) of the Act, magazine, business card, sign, circular or other publication or advertising media.~~

b) No blind advertisements may be used by any licensee regarding the sale or lease of real estate, including his own, or regarding real estate activities or the hiring of all licensees under the Act, ~~including employment and schools.~~

b) c) No advertising is to be fraudulent, deceptive, inherently misleading, or proven to be misleading in practice. It is considered misleading or untruthful if, when taken as a whole, there is a distinct and reasonable possibility that it will be misunderstood or will deceive the ordinary purchaser, seller, renter, or owner. Advertising shall contain all information necessary to ~~make the communication accurately not misleading and shall not contain any false or misleading statement or otherwise operate to deceive.~~ The form of communication shall be designed to communicate the information contained therein to the public in a direct and readily comprehensible manner.

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- e) d) A sponsored licensee ~~salesperson~~ cannot advertise under his own name. All advertising ~~shall not~~ be under the direct supervision of his employing broker and in the name of the ~~said~~ employer.
- e) e) No licensee ~~salesperson~~ shall list his name under the heading or title "Real Estate" in the telephone directory or otherwise advertise in his own name to the general public through any media of advertising as being in the real estate business without listing the business name of the broker with whom he is affiliated. Printed information relating to the licensee ~~salesperson~~ and his name cannot be larger in size than that pertaining to the broker's business name.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.100 Discrimination

- a) Pursuant to Section 18(h)(22) of the Act, No licensee shall enter into a listing agreement which prohibits the sale or rental of real estate to any person because of race, color, creed, religion, national origin, sex, ~~or physical handicap or familial status~~.
- b) No licensee shall act or undertake to act as a real estate broker or real estate salesperson with respect to any property the disposition of which is prohibited to any person because of race, color, creed, religion, national origin, sex, ~~or physical handicap or familial status~~.
- c) A judgment or conviction in any court of competent jurisdiction that any licensee or applicant for licensure has violated any constitutional or statutory provision prohibiting discrimination in housing shall be deemed a demonstration of "unworthiness or incompetency to act as a real estate broker or salesperson in such manner as to endanger safeguard the interests of the public" and is subject to discipline pursuant to ~~as set forth in~~ Section 18(h)(12) ~~to (44) of the Act~~.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.140 Assumed Name

If a real estate broker operates under any name other than that appearing on his license, he shall ~~must~~ submit a certified copy of his registration under "An Act in relation to the use of an assumed name in the conduct or transaction of business in this State." (Ill. Rev. Stat. 1989 1983, ch. 96, par. 4 et seq.) at the time of application or within thirty (30) days of such registration.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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Section 1450.150 Reciprocal Licensure

- a) A license shall be issued without examination to a real estate broker licensed under the laws of his home state or to a real estate salesperson licensed under the laws of his home state under the following conditions:
- 1) That the broker or salesperson is the holder of an active license in his home state;
 - 2) That the standards of that state for licensing as a real estate broker or salesperson are substantially equivalent to the minimum standards in Illinois;
 - 3) That the broker maintains a definite place of business in his home state and has been actively engaged in the real estate business as a broker during the immediately preceding two (2) years;
 - 4) That the broker's or salesperson's home state grants reciprocal privilege to brokers and salespersons licensed in Illinois; and
 - 5) If he is a salesperson ~~nonresident-salespersons~~ holding an Illinois reciprocal license, that he is employed by or under contract to a non-resident Illinois-licensed real estate broker residing in the same state broker who also holds an Illinois license and resides in the same state.

- b) The broker or salesperson shall file an application, on forms furnished by the Department, along with the required fee specified in Section 15 of the Act and a statement bearing the under seal of the licensing authority in the state in which he is licensed, showing that he has an active license as a broker or salesperson in that state.

- c) Upon request by the Department ~~renewal~~, the broker or salesperson shall attest in writing, on forms supplied by the Department, to the fact that his license in his home state is active and in good standing and that he understands that his reciprocal license is valid only as long as he remains a resident of that state and will be invalid on the date his home state license is expired, is suspended, is inactive, or otherwise not in good standing.

- d) A reciprocal license becomes invalid when the licensee changes his residence to Illinois or any other state. Such individual shall ~~must~~ meet the licensure requirements of the Act and this Part in effect at the time of his application for relicensure in Illinois ~~and these rules then in effect and shall not be issued~~ obtain a license in accordance with Section 12 or Section 14 of the Act prior to practicing in this State.

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- e) All requirements for licensure by reciprocity shall be met within 1 year of the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, such applicant shall file a new application and fee.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.170 Rental Finding Services

a) Definition - Application

- 1) A rental finding service is any business which finds, attempts to find, or offers to find, for any person who pays or is obligated to pay a fee or other valuable consideration, a unit of rental real estate or a lessee to occupy a unit of rental real estate, not owned or leased by such business.
- 2) Any person, partnership, or corporation which operates a rental finding service shall be considered a broker or salesperson as defined in the Real Estate License Act, shall obtain a license pursuant to the Act, and shall comply with the provisions of this Section.

- 3) The provisions of this Section shall not apply to:

A) Newspapers as defined in Section 4(14) of the Act, ~~or other periodicals which are issued at regular intervals, have a general circulation, and are not issued primarily for the purpose of promoting on behalf of others the leasing of real estate;~~

B) Listing contracts between owners or lessors of real estate and licensees.

- b) Contract. A rental finding service shall, prior to accepting a fee or other valuable consideration for such services, enter into a written contract with the person for whom such services are to be performed and deliver to such person a copy of such contract. Such contract shall include in the case of a rental finding service which finds, offers, or attempts to find a unit of rental real estate for an individual, at a minimum, the following provisions:

- 1) The term of the contract;
- 2) The total amount to be paid for the services to be performed ~~thereunder~~ and a clear designation of the amount paid in advance of the performance of such services;

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- 3) A statement regarding the refund or non-refund of the fee paid in advance, which shall include:

- A) the precise conditions, if any, upon which a refund is based;
- B) the fact that such conditions ~~shall must~~ occur within ~~ninety-(90)~~ days from the date of the contract;
- C) the fact that the refund shall ~~must~~ be paid no later than ~~ten-(10)~~ days after demand ~~therefor~~, provided the check has been honored.

- 4) The statements required by subsection (3) above shall be uniform in type of a size larger than that used for the balance of the contract;

- 5) The type of rental unit desired, the geographical area requested, and the rent the prospective tenant is willing to pay;

- 6) A detailed statement of rental finding services to be performed by the licensee, which services shall include, at a minimum, the delivery to such prospective tenant of all rental information as listed in subsection (c); below;

- 7) A statement that such contract shall be null and void if information concerning possible rental units or locations furnished by the licensee is not current or accurate with respect to the type of rental unit desired and described in subsection (b)(5); above. A listing for a rental unit which has not been available for rent for over two days shall be prima facie proof of not being current;

- 8) A statement that information furnished by the licensee concerning possible rental units may be up to ~~two~~ 2 days old;

- 9) A statement requiring the licensee to refund all fees paid in connection with the contract if such contract is null and void for any reason. The licensee shall not impose any condition for such refund and the contract shall state when the refund will be paid.

- c) Disclosure. Pursuant to subsection (b)(6); above, the following written information for each rental unit shall be provided to the person with whom such contract is entered into:

- 1) The name, address, and the telephone number of the owner of each rental unit, or his authorized agent;
- 2) A description of the rental unit;

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- 3) The amount of rent requested;
- 4) The amount of security deposit required;
- 5) A statement describing utilities which are located in the rental unit and included in the rent;
- 6) The occupancy date and the term of lease;
- 7) A statement setting forth the source of the rental information, (i.e., owner, agent);
- 8) All other information which may reasonably be expected to be of concern to the prospective tenant.
- d) Permission of Owner. A rental finding service shall not list or advertise any rental unit without the express written authority of the owner or agent of each unit.
- e) Violation. Without limiting the provisions of the Act or this Part, a licensee shall be deemed to have demonstrated unworthiness or incompetence as a broker under Sections 18 and 20 of the Act when such registrant shall have violated any provision of this Section, including, but not limited to, failing to refund, pursuant to proper demand, any rental finding fee to any person lawfully entitled to such refund.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.180 Renewals

- a) ~~Every license issued under the Act as a real estate broker, partnership or corporation shall expire on January 31 of each even numbered year. Every license issued under the Act as a salesperson shall expire on March 31 of each odd numbered year. The holder of a license may renew such license during the month preceding the expiration date thereof by paying the required fee specified in Section 15 of the Act.~~
- b) ~~It is the responsibility of each licensee to notify the Department of any change of address.~~
- c) ~~All renewals must include the name and license number of the sponsoring broker.~~
- d) ~~Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee.~~

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- a) ~~Every salespersons license issued under the Act shall expire on March 31 of each odd numbered year. The holder of a salespersons license may renew such license during the month preceding the expiration date thereof by paying the required fee set forth in Section 15 of the Act, unless otherwise provided for in subsections (c) and (d) below.~~
- b) ~~Every brokers license issued under the Act shall expire on January 31 of each even numbered year. The holder of a brokers license may renew such license during the month preceding the expiration date thereof by paying the required fee set forth in Section 15 of the Act, unless otherwise provided for in subsections (c) and (d) below, and shall submit a properly completed consent to audit and examine special accounts form.~~
- c) ~~Every license issued to a partnership, corporation or branch office under the Act shall expire on October 31 of each even numbered year. The holder of such license may renew that license during the month preceding the expiration date thereof by paying the required fee set forth in Section 15 of the Act and by submitting the following:~~
 - 1) ~~A properly completed consent to audit and examine special accounts form; and~~
 - 2) ~~A properly completed corporation/partnership information form, except for branch office.~~
- e) ~~It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.~~
- f) ~~Practicing or offering to practice on an expired or inoperative license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline pursuant to Section 18 of the Act.~~
- g) ~~Any licensee referenced in subsection (a) and (b) above, whose license under this Act has expired is eligible to renew such license without paying any lapsed renewal fees or reinstatement fee provided that such license expired while the licensee was:~~
 - 1) ~~on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States; or~~
 - 2) ~~engaged in training or education under the supervision of the United States prior to induction into military service; or~~

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3) 3) serving as the Commissioner of Real Estate in the State of Illinois, or as an employee of the Department (Section 13.1 of the Act).

4) Licenses renewing their license in accordance with this subsection may renew such license within a period of two years following the termination of such service and are not required to take a refresher course or to retest.

b) In accordance with Section 13.2 of the Act, any individual whose license under this Act has expired for more than 5 years shall not be eligible for renewal of such license.

1) Any licensee whose license has been expired for less than 3 years may renew such license at any time by complying with the requirements of this Section and by paying the fees required by Section 15 of the Act.

2) A licensee whose license has been expired for more than 3 years but less than 5 years may renew such license only after providing the Department with evidence that the licensee has satisfactorily completed at least 15 hours of refresher courses at a program approved in accordance with Section 1450.210 and by otherwise complying with the requirements of this Section. The refresher course shall be completed within one year prior to renewal.

i) All renewals shall include the name and license number of the sponsoring broker.

j) In accordance with Section 13 of the Act, within 60 days after the conclusion of the broker and salesperson renewal period, the Department shall prepare and mail to each licensed real estate broker a listing of licensees who, according to the Department's records, are sponsored by that broker.

1) This list shall be mailed to the last known address of the broker.

2) The broker shall respond to the Department within 30 days after the receipt of this listing by either:

A) Submitting to the Department a statement verifying the accuracy of such list; or

B) Notifying the Department in writing of any discrepancies in the list.

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3) Failure by a broker to respond to the Department as set forth in subsection (b)(2)(B) above shall serve as automatic verification by the broker that the information contained on the list is correct.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.185 Granting Variances

a) The Director may grant variances from these rules in individual cases where he finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Real Estate Administration and Disciplinary Board of his intention to grant a variance, and the reasons therefor, at a meeting of the Board, prior to his granting said variance.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

SUBPART B: SCHOOL RULES

Section 1450.210 Approval of Schools (Repealed)

a) All schools teaching real estate courses in the State of Illinois must be approved by the Department, and by the governing board of the State of Illinois under which they are supervised.

b) In accordance with the requirement in Section 31 of the Act, a school is defined as an educational institution offering annually subjects in real estate as provided in Section 31 of the Act. Said school shall offer, in addition to the thirty (30) class hour Real Estate Transactions Course as designated in Section 1450.240 of this Part and the two mandatory broker courses as designated in Section 1450.230(e) of this Part, at least three (3) of the optional courses as designated in Section 1450.230(e) of this Part.

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- 1) Private schools operated by corporations or community organizations chartered by the State of Illinois, individuals and partnerships, to meet the education requirements of applicants for real estate broker or salesperson license under the Act, shall qualify for accreditation providing they meet the requirement for appointment of instructors, content of courses, hours of instruction, and pay the fee required by Section 15(d) of the Act.
- 2) Out-of-state private business and vocational schools shall be approved if the school meets the same standards and conditions as an in-state approved school, specified in Section 1450.290 of this Part, pays the fee required by Section 15(d) of the Act.
- 3) A correspondence school organized as a private business school either out-of-state or in-state must receive approval to operate from the Department and the State Board of Education.
- 4) Out-of-state colleges and universities chartered by their state education authority shall be approved providing their standards of instruction as specified in Section 1450.290(d) of this Part meet the approval of the Department.
- e) No approved real estate school may add courses or locations without prior written approval by the Department.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 1450.215 Home Study/Correspondence Programs Schools

Home study/correspondence programs shall be affiliated with an approved school and meet the curriculum requirements set forth in Section 1450.280(c) of this Part. The Department shall, upon the recommendation of the Board, accept as approved a home study/correspondence school which meets the following minimum criteria:

- a) The program shall meet:
 - 1) Be approved by this Department in accordance with Section 1450.210 the appropriate governing board in the State of Illinois, except in the case of private vocational schools;
 - 2) Maintain a brief description of each lesson;
 - 3) Maintain a list of approved instructors who prepare each specific lesson the authors and/or subject-matter specialists for all lessons with a statement on the qualifications of the individuals in the instructional field;

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- 4) Maintain ~~Maintains~~ a list of titles, authors and/or subject-matter specialists, publishers, and copyright dates of all instructional materials;
- 5) Require minimum passing scores for all its tests and examinations of no less than 75% on all examinations and a 75% passing grade on a minimum 100-question final examination;
- 6) ~~Maintains~~ Consist of at least five lessons and examinations plus lessons and examinations which shall be a minimum of five (5) in number with one (4) additional final examination of at least 100 questions.
- b) The program school shall develop a written provide the Department with a course of study which shall include a statement of teaching methods to be employed and, materials, and equipment needed for each course of instruction.
- c) The program school shall establish written policies and procedures which shall include written policies for grading examinations required tests and lessons, which shall include plans and the prompt return of such materials. There shall also be provisions for instructor comments, and suggestions and for written correction of errors. There shall also be written procedures for the prompt return of materials and weaknesses by approved faculty instructors approved pursuant to Section 1450.290(e) of this Part.
- d) The program school shall establish performance objectives for each specific courses of study, and the overall pass rate on the licensure examination shall not fall below forty percent (40%) for a six (6) month period, either January through June or July through December.
- e) The program shall maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December. The school shall have a full-time home study coordinator who is not the Director of the program.
- f) An approved qualified instructor shall meet be available during normal business hours to answer student questions.
- g) Students shall be allowed to attend sit in on the school's regularly scheduled real estate courses prelicensing classes

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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Section 1450.220 Definition of Class Hour and Credit Hour (Repealed)

- a) A class hour in a course shall be defined as fifty (50) minutes of lecture in classroom attendance or the equivalent materials through correspondence in a school approved by the Department.
- b) For each full 15 class hours earned for attendance at and receiving a passing grade in an approved course, one (1) credit hour shall be granted.
- c) Six (6) credit hours (ninety (90) class hours or more) are required of broker applicants.
- d) Two (2) credit hours (thirty (30) class hours or more) are required of salesperson applicants.
- e) Credits for class hours and credit hours for broker and salesperson applicants must accrue from attendance in courses at schools approved by the Department.
- f) No approved course shall have a minimum of less than fifteen (15) class hours.
- g) Each school shall provide adequate time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 1450.230 Educational Requirements of Broker Applicant Who is a Licensed Illinois Real Estate Salesperson (Renumbered)

(Source: Section 1450.230 renumbered to Section 1450.11, new Section adopted at 14 Ill. Reg. _____, effective _____)

Section 1450.240 Class Attendance Requirements Class-Hour-Requirements-for-the Real Estate Transactions Course

- a) Attendance at all classes is mandatory, however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (b) below. Absences in excess of 10% of class hours shall result in failure of the course. The thirty (30) class hour credit (two (2) credit hours) course required of all applicants for salesperson license or the thirty (30) class hour credit portion of the course requirement for applicants for broker license shall be entitled "Real Estate Transactions Course".

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- b) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period. Each applicant shall have successfully completed thirty (30) class hours as defined in 68 Ill. Adm. Code 1450.220.
- c) Attendance of thirty (30) class hours is mandatory in the Real Estate Transactions Course. Credit for absences not to exceed 10% of the mandatory class hours may be made up by attendance at make-up classes as provided in 68 Ill. Adm. Code 1450.220(g).
- d) Wherever course class hours exceed by 10% or more the mandatory thirty (30) class hours provided in the Real Estate Transactions Course, credit not to exceed 10% of the mandatory class hours may be given toward absent class hours. Absences in excess of 10% of class hours shall be sufficient cause for failure of the course.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 1450.250 Requirements for Minor in Real Estate (Renumbered)

(Source: Section 1450.250 renumbered to Section 1450.12, new Section adopted at 14 Ill. Reg. _____, effective _____)

Section 1450.260 Qualification of Applicants Under 21 Years of Age (Repealed)

An applicant shall qualify to take the salesperson examination pursuant to Section 14 of the Act if the applicant has attained the age of eighteen (18) years and has successfully completed two (2) years of college, including the thirty (30) class hour (two (2) credit hours) Real Estate Transactions Course.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 1450.270 Educational Requirements for Reinstatement of License (Repealed)

If a real estate broker or salesperson has been on an inactive status as defined in Section 13 of the Act for a period of more than five (5) but less than seven (7) years of it, the broker or salesperson license has expired or been suspended for a period of more than five (5) but less than seven (7) years, and the applicant desires to register on an active status, the applicant shall first be required to successfully complete within one year immediately prior to date of application an approved Refresher Course for License Reinstatement which shall consist of a minimum of fifteen (15) class hours (one (1) credit hour), or the Real Estate Transactions Course or the Advanced Real Estate

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~~Principles Course. Any license which has been on an inactive status for more than seven (7) consecutive years shall not be reinstated.~~

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 1450.275 Recruitment at Test Center

Recruitment at test facilities where the Illinois Real Estate Licensing Examination is being conducted is not permitted before, during, or after the examination

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 1450.280 Application for Approval of Schools

~~A school seeking the approval of the Department for teaching real estate courses in the State of Illinois shall submit its application on the official form designated by the Department. This form is available from the Department upon request.~~

- a) In accordance with Section 31 of the Act, a school seeking approval shall submit an application on forms provided by the Department along with the appropriate fee required in Section 15 of the Act. The Department shall, upon the recommendation of the Real Estate Administration and Disciplinary Board approve a school of real estate if it meets the following minimum requirements ~~criteria~~:

- 1) ~~An approved~~ schools shall include ~~be one of~~ the following, ~~approved in accordance with this Section~~:

- A) ~~Colleges and Universities~~ chartered by their state education authority;
- B) ~~Private Real Estate Schools~~ whether operated by corporation, community organizations or any other entity to meet the education requirements of applicants for real estate broker or salesperson license under the Act. (Referred to in Section 15(E) of the Act as ~~Private, Business, or Vocational Real Estate Schools~~); or
- C) ~~Public Real Estate Schools~~ approved by their state education authority, and supported by public taxes.

- 2) The program shall:

- A) Be approved by ~~Have the prior approval of~~ the school's governing and/or supervising body, except in the case of private real estate vocational schools;

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- B) ~~Maintain a separate fixed office in Illinois which is adequate for the maintenance of all records, office equipment, files, telephone equipment and office space necessary for customer service.~~

- C) ~~B) Have a faculty all of whom meet the qualifications of subsection (b) (e) below;~~

- D) ~~C) Have a curriculum which conforms to the standards of subsection (c) (d) below;~~

- E) ~~D) Administer a minimum 100 question mandatory final examination as outlined in subsection (c)(6) (f) below;~~

- b) ~~An approved real estate school which is tax supported shall not utilize branch or extension locations at facilities maintained by real estate brokers.~~

3) Facilities

- A) A school must provide an office in Illinois or a bordering state for the maintenance of all records, office equipment and office space necessary for customer service.

- B) A school seeking approval of any classroom site, shall furnish to the Department an affidavit setting forth the name of the owner of the premises to be utilized and a copy of the lease.

- C) The premises, equipment and facilities of the school shall comply with all applicable community fire codes, building codes, and health and safety standards.

- D) The school is subject to inspection prior to approval or thereafter by authorized representatives of the Department during regular business hours

- E) No school shall be maintained in a private residence.

- F) Whenever an approved school operates a branch or extension location, then an application shall be filed for each branch or extension location. Each application shall be accompanied by the fee as required by Section 15 of the Act.

- G) No approved school shall allow the school premises or classrooms to be used during class time by anyone to directly or indirectly recruit new affiliates for any company. Instructors and school administrators shall promptly report to the Department any efforts to recruit students.

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4) Administration

- A) Instructors within an adult education, community education or vocational education program at any approved real estate school shall meet the criteria for approval as set forth in subsection (b).
- B) No approved school shall advertise that it is endorsed, recommended, or accredited by the Department. Such school, however, may indicate that the school and course of study has been approved by the Department.
- C) Before each approved real estate course is to begin, an approved school shall submit notice to the Department where the class is to be taught, title of the course, who is to instruct the class, date and time of the class and estimated class enrollment.
- D) The school shall provide the student with information which specifies the course of study to be offered; the tuition to be charged; the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship; any additional fee to be charged for supplies, materials or books which become the property of the student upon payment; and such other matters as are material to the relationship between the school and the student.
- E) Each school shall maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the school for a period of 5 years and shall be available for inspection by the student or by the Department or its designee during regular business hours.
- F) Total tuition for any course of instruction offered by the school shall be the same for all students at any given time.
- G) An approved real estate school shall upon request give evidence of the financial resources available to equip and maintain the school documented by a current balance sheet, an income statement or any such similar evidence as required by the Department.
- H) The Department shall upon an on-site inspection of an out-of-state school be reimbursed by the school for all expenses incurred by the inspector in the course of inspection.

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- b) Qualifications of Instructors in Approved Schools. The approved school shall employ only instructors who have been approved by the Department and meet the following:
- 1) Except as provided in subsections (7) and (8) below, pass an examination approved by the Department with a minimum score of 70; and
 - 2) Holds a real estate broker's license for at least the last 3 years and has been engaged in active practice as an Illinois real estate broker; or
 - c) Qualifications of instructors in Approved Schools other than Colleges and Universities: The approved school shall employ instructors who are experienced in the subject which they are teaching and possess the following minimum qualifications:
 - 1) Licensed real estate broker who is and for at least five (5) years last past continuously has been engaged in active practice as an Illinois real estate broker; or
 - 2) Is currently admitted to practice law by the Supreme Court of Illinois Member of the State Bar of Illinois who is, and for at least 3 five (5) years last past continuously has been engaged in the active practice of law in Illinois; or
 - 3) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least 3 years; or as evidenced by a professional designation such as but not limited to, a designated real estate instructor (DREI); or approved by a college or university's governing body to teach in a real estate degree program at a community college, college or university; or
 - 4) Is properly licensed or certificated to engage person who is engaged in the business of appraisal, finance and/or related real estate occupations and who is a member of a nationally recognized association in that field and for at least 3 five (5) years has been last past continuously engaged in such practice; or
 - 5) A person who, in the judgment of the Commissioner, is qualified by experience or education, or both, to supervise a course of study pursuant to the provisions of this Section. In determining whether a person is qualified to supervise a course of study under this Section, the Commissioner shall consider:
 - A) The individual's teaching experience;
 - B) The individual's real estate experience;

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- C) Any real estate, business or legal education of the individual;
- D) The results of a the personal interview with the individual.
- 7) Those instructors teaching in a college or university real estate degree program are subject to approval by the administrator of that program and are not required to meet the examination requirement.
- 8) Instructors approved on the effective date of this amendment are exempt from taking the examination as long as they maintain an active instructor's certificate and have no break in such active status greater than five years.
- 9) A school seeking the approval of the Department for real estate instructors shall submit an application on forms provided by the Department and the appropriate fee. ~~No person shall be utilized to teach a course of instruction unless he is approved by the Department to teach the course.~~
- 10) No approved instructor shall be seated for either the salesperson or broker licensure examination except for the purpose of securing a salesperson or brokers license.

(AGENCY NOTE: ~~The administrator of the Real Estate Division in a College or University shall be responsible for the appointment of instructors in the selected real estate subjects.~~)

- d) C) Curricula. The Department of Professional Regulation shall set forth the curriculum for each approved course.

- 1) The school shall offer classroom instruction in the following subjects:

- A) Real Estate Transactions as outlined in subsection (3)(A) below;
- B) Advanced Real Estate Principles and Contracts and Conveyances as outlined in subsections (3)(B) and (C) below; and
- C) In addition to those listed in subsections (A) and (B) above, at least 3 optional courses as outlined in subsection (3) below shall be offered.
- 4) The application of the school requesting approval shall include ~~submit~~ an outline of the content of the courses to be offered. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the approved curricula outlines prepared by the Department.

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- 2) Approved Courses shall ~~must~~ be taught in the following subjects and meet the minimum criteria set forth below:
- A) Real Estate Transactions shall include a minimum of 30 thirty (30) class hours. The course shall include instruction in real estate law, types of interest and ownership in real estate, home ownership, legal descriptions, titles, liens, taxes, encumbrances, listing, advertising, appraisal, finance, closings, and professional code of ethics.
- B) Advanced Real Estate Principles shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms, and the broker-salesperson relationship.
- C) Contracts and Conveyances shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant, cooperatives and condominiums.
- B) Appraisal shall consist of include a minimum of 15 fifteen (15) class hours. The course shall include instruction in the appraisal process, real property and value, economic trends, depreciation, land value.
- C) Property Management shall consist of include a minimum of 15 fifteen (15) class hours. The course shall include instruction in fundamentals of tenant-management relationship, property modernization, property maintenance, leases, insurance, commercial property, industrial property, advertising.
- D) ~~Contracts and Conveyances shall include a minimum of fifteen (15) class hours and shall be mandatory for a broker. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant, cooperatives and condominiums.~~
- E) Financing shall consist of include a minimum of 15 fifteen (15) class hours. The course shall include instruction in types of financing, sources of financing, mortgages, mortgage documents, closing a mortgage, interest, liens, foreclosure, insurance, mortgage risk, principles of property value for mortgage credit, mortgage analysis, construction loans.

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- F) G) Sales and Brokerage shall consist of ~~include~~ a minimum of 15 fifteen (45) class hours. The course shall include instruction in qualifications and functions of a real estate broker; land utilization; appraisal principles and methods; office organization; selection, training and supervision of salespersons and office personnel; compensation of salesperson listings; prospects; real estate markets; financial control; and government regulations.
- G) H) Farm Property Management shall include a minimum of 15 fifteen (45) class hours. The course shall include instruction in inventorying assets, determining method of operation, tenants, budgeting, crop and livestock production, marketing, tax planning and depreciation, government programs and regulations, insurance and ethics.
- H) I) Real Property Insurance shall include a minimum of 15 fifteen (45) class hours. The course shall include instruction in risk, functions of insurance, insurance contracts, types and purposes of insurance.
- I) J) Advanced Real Estate Principles shall include a minimum of fifteen (15) class hours and shall be mandatory for brokers. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms, the broker-salesperson relationship.
- J) K) Refresher Course for License Reinstatement shall include a minimum of 15 fifteen (15) class hours. The course shall include instruction in current Illinois real estate law and rules, appraisals, contracts, open housing, transfer of title, leases, landlords/tenant, property management and real estate brokerage. Courses which may be substituted for this are Basic Transactions and Advanced Principles.
- K) L) The Department shall make available to the public upon request under the Freedom of Information Act (5supp. to Ill. Rev. Stat. 1989-1993, ch. 116, par. 201-et seq.) copies of curricula of any of the courses specified above.
- L) M) If additional elective courses are developed, they shall ~~must~~ be approved by the Department prior to implementation. Such courses shall be approved upon determination that the course is at least 15 clock hours in length and constitutes real estate related material.
- M) N) Examinations. Each course shall ~~must~~ end in a mandatory final examination for which the minimum pass rate shall be no less than 70%.

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- N) O) Changes in ownership, management and curriculum occurring subsequent to the approval of a program shall ~~must~~ be approved by the Department prior to implementation in order for approval to continue uninterrupted.
- O) P) The Department shall notify officials of the school in writing within fifteen days of its the Department's approval or disapproval of a real estate school; officials of the school will be so notified in writing. In the event the school is disapproved, the reasons therefore will be detailed and the officials advised that the disapproval may be appealed by notifying the Department, in writing, within ten (10) days of the receipt of the disapproval.
- P) Q) Withdrawal of Approval
- Q) R) The Department, upon written recommendation of the Real Estate Administration and Disciplinary Board, shall withdraw, suspend or place on probation the approval of the real estate school when the quality of the program fails to continue to meet the established criteria of an approved real estate school as set out in this Section or upon determination that the decision to approve the program was based upon false or deceptive information.
- R) S) If the Board has reason to believe there has been any fraud, dishonesty, or lack of integrity in the furnishing of any documentation for the evaluation of a program on the part of any licensee, it shall refer such matter to the appropriate personnel for any disciplinary action which might be appropriate under the Real Estate License Act (Ill. Rev. Stat. 1987, ch. 111, par. 5601, et seq.).
- S) T) An approved real estate school which does not maintain at least a forty percent (40%) passing rate of all students who take the licensure examination over a six (6) month period, either January through June or July through December, will be placed on a six (6) month probation. During the probation period, approval may be withdrawn if the school fails to maintain an average passing rate of at least forth percent (40%) of all students who take the licensure examination.
- T) U) A real estate program whose approval is being reevaluated by the Department shall be given at least 30 days written notice prior to any recommendation by the Board, and the officials in charge may either submit written comments or request a hearing before the Board.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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Section 1450.290 Withdrawal of Approval

- a) Upon written recommendation of the Real Estate Administration and Disciplinary Board, the Department shall withdraw, suspend or place on probation the approval of the real estate school when the quality of the program fails to continue to meet the established criteria as set forth in this Section or if approval of the school or program was based upon false or deceptive information.
- b) If the Board has reason to believe there has been any fraud, dishonesty, or lack of integrity in the furnishing of any documentation for the evaluation of a school or program, it shall refer such matter to the appropriate personnel for investigation and any disciplinary action which might be appropriate under the Act.
- c) An approved real estate school which does not maintain an average passing rate of at least a forty percent (40%) for all students who take the licensure examination for the first time over a six (6) month period, either January through June or July through December, will at the recommendation of the Real Estate Administration and Disciplinary Board be placed on a six (6) month probation. During the probation period, approval may be suspended or withdrawn if the school fails to maintain an average passing rate of at least forty percent (40%) of all students who take the licensure examination for the first time over the next 6 month period.
- d) A probation period shall be further defined as a time an approved school can not receive approval for any course additions or changes.
- e) A real estate program whose approval is being reconsidered shall be given at least 30 days written notice prior to any reconsideration by the Board. The officials in charge may either submit written comments or request a hearing before the Board.
- f) In the event the real estate license of the administrator of an approved school is suspended or revoked, the school approval shall automatically be rescinded.

(Source: Added at 14 Ill. Reg. _____ effective _____)

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1) The Heading of the Part: AID TO FAMILIES WITH DEPENDENT CHILDREN

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Number: Proposed Action:
112.64 Amendment

4) Statutory Authority: Sections 4-1.3 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 4-1.3 and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking revises the criteria for AFDC eligibility based on unemployment of the parent as allowed by the Family Support Act of 1988 (P.L. 100-485). The definition of a work quarter, used in establishing connection to the labor force, now includes a quarter in which the parent participated full-time in an education or training program. No more than four (4) of the six (6) quarters required may be of this type. Additionally, clarifications are made regarding Project Chance participation and the definition of full-time employment.

6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No ☐

8) Does this Proposed Amendment contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation
112.143 Amendment October 2, 1990
(14 Ill. Reg. 16768)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be

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in writing and should be addressed to Anita Williams, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762 (217) 782-1233. The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

- 12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112

AID TO FAMILIES WITH DEPENDENT CHILDREN

SUBPART A: GENERAL PROVISIONS

Section	
112.1	Description of the Assistance Program
112.5	Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.60	Lack of Parental Support or Care
112.61	Death of a Parent
112.62	Incapacity of a Parent
112.63	Continued Absence of a Parent
112.64	Unemployment of the Parent

SUBPART C: PROJECT CHANCE

Section	
112.70	Participation Requirements For Project Chance
112.71	Individuals Exempt From Project Chance
112.72	Project Chance Participation/Cooperation Requirements
112.73	Failure to Participate with the Work Incentive Demonstration Program (Renumbered)
112.74	Project Chance Initial Assessment Process/Development of an Employability Plan
112.76	Project Chance Orientation
112.77	Conciliation and Fair Hearings
112.78	Project Chance Components
112.79	Project Chance Sanctions
112.80	Good Cause for Failure to Comply With Project Chance Participation Requirements
112.81	Responsible Relative Eligibility For Project Chance

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Section
112.82 Project Chance Supportive Services
112.83 Young Parents Program
112.84 Work Experience Evaluation Project
112.85 Four Year College/Vocational Training Demonstration Project

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance
112.87 Project Advance Experimental and Control Groups
112.88 Project Advance Participation Requirements of
Experimental Group Members and Adjudicated Fathers
112.89 Project Advance Cooperation Requirements of
Experimental Group Members and Adjudicated Fathers
112.90 Project Advance Sanctions
112.91 Good Cause for Failure to Comply with Project Advance
112.93 Individuals Exempt From Project Advance
112.95 Project Advance Supportive Services

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
112.100 Unearned Income
112.101 Unearned Income of Stepparent, Parent or Legal
Guardian
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants Employed On
Date of Application And/Or Date Of Decision
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earmarked Income
112.127 Lump Sum Payments
112.128 Protected Income
112.130 Earned Income
112.131 Earned Income Tax Credit
112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Applicants Employed On
Date of Application And/Or Date Of Decision

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Section
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-Contractual School
Employees
112.137 Termination of Employment
112.138 Transitional Payments
112.140 Exempt Earned Income
112.141 Earned Income Exemption
112.142 Exclusion From Earned Income Exemption
112.143 Recognized Employment Expenses
112.144 Income From Work/Study/Training Program
112.145 Earned Income From Self-Employment
112.146 Earned Income From Roomer and Boarder
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112.148 Payments from the Illinois Department of Children
and Family Services
112.149 Earned Income In-Kind
112.150 Assets
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112.153 Deferral of Consideration of Assets
112.154 Property Transfers
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SUBPART H: PAYMENT AMOUNTS

Section
112.250 Grant Levels
112.251 Payment Levels in AFDC
112.252 Payment Levels in AFDC Group I Counties
112.253 Payment Levels in AFDC Group II Counties
112.254 Payment Levels in AFDC Group III Counties

SUBPART I: OTHER PROVISIONS

Section
112.300 Persons Who May Be Included in the Assistance Unit
112.301 Presumptive Eligibility
112.302 Monthly Reporting
112.303 Restrospective Budgeting
112.304 Budgeting Schedule
112.305 Strikers
112.306 Foster Care Program
112.307 Responsibility of Sponsors of Aliens
112.308 Special Needs Authorizations
112.309 Institutional Status
112.315 Young Parent Program (Renumbered)
112.320 Redetermination of Eligibility

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Section 112.330 Twelve Month Extension of Medical Assistance Due to Increased Income from Employment
112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)

SUBPART J: CHILD CARE

Section 112.350 Child Care
112.352 Child Care Eligibility
112.354 Qualified Provider
112.356 Notification of Available Services
112.358 Participant Rights and Responsibilities
112.362 Additional Service to Secure or Maintain Child Care Arrangements

112.364 Rates of Payment for Child Care
112.366 Method of Providing Child Care

SUBPART K: TRANSITIONAL CHILD CARE

Section 112.400 Transitional Child Care Eligibility
112.404 Duration of Eligibility for Transitional Child Care
112.406 Loss of Eligibility for Transitional Child Care
112.408 Qualified Child Care Providers
112.410 Notification of Available Services
112.412 Participant Rights and Responsibilities
112.414 Child Care Overpayments and Recoveries
112.416 Fees for Service for Transitional Child Care
112.418 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 4-1 et seq. and 12-13)

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 4 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 8041 effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 1, 1981; January 1, 1982, amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21,

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1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984 for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June, 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective

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July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 14172, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140,

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effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.64 Unemployment of the Parent

a) Unemployment of the parent is the basis of a child's eligibility for Aid to Families with Dependent Children-Unemployment (AFDC-U), whether or not the parent is in the assistance unit, when the parent is in the home and is employable but unemployed.

b) The parent designated as unemployed must be the principal wage earner of the family. The principal wage earner is defined as the parent who earned the greater amount of income during the 24 month period prior to application for assistance or who earned the greater amount of income during the 24 month period prior to the date of change in the cause of dependency, i.e., the date that there is no longer an absent parent or incapacity ended for one of the parents (see Section 112.62(a) for a definition of "incapacity"). The Department's Determination-Review Unit ("DRU") periodically reviews the client's medical condition to determine if he/she is still incapable. The review date for medical incapacity is established by DRU at the time DRU determines that the client is incapable, and is the date in DRU's judgment, that the client's incapacity will end.

c) As a condition of eligibility, the unemployed parent who is the principal wage earner must:

- 1) Apply for Unemployment Insurance (UI) benefits for which he has been referred by the Department, and
- 2) Accept any Unemployment Insurance benefits for which he is eligible.

d) As a condition of eligibility for cash assistance, the unemployed parent who is the principal wage earner must:

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Section 112.64 Unemployment of the Parent (Cont'd)

1) Participate or be available for participation in Project Chance (see Sections 112.70 thru 112.83) unless exempt.

2) Register for employment at the Department of Employment Security's Job Service Office if exempt from Project Chance due to remoteness (see Section 112.71).

e) A parent who is the principal wage earner is unemployed if:

- 1) The parent is working for an employer or is self-employed but is working less than 100 hours per month. If employment equals or exceeds 100 hours during a particular month, the parent may still be considered unemployed if he was employed for less than 100 hours for the prior two months and is expected to be employed for less than 100 hours for the following month.
- 2) The parent is not working and he has not worked at least 30 days prior to the receipt of assistance.
- 3) The parent has not refused an offer of suitable and available employment without good cause for at least 30 days prior to the receipt of assistance.

*Agency Note: Regardless of the application date, the initial authorization may not include assistance for any portion of the 30 day period since discontinuation of or refusal to accept an offer of employment.

- e) A parent is unemployed if the parent is not self-employed full time, is the principal wage earner, and:
 - 1) The parent is not working and he has not worked at least 30 days prior to the receipt of assistance.
 - 2) The parent has not refused an offer of suitable and available employment without good cause for at least 30 days prior to the receipt of assistance.

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NOTICE OF PROPOSED AMENDMENT

Section 112.64 Unemployment of the Parent (Cont'd)

- 3) ~~Regardless of the application date, the initial authorization may not include assistance for any portion of the 30-day period since disenrollment of or refusal to accept an offer of employment.~~

f) The principal wage earner is unemployed if he/she has established a connection with the labor force by meeting one of the conditions below:

- 1) The principal wage earner received Unemployment Insurance Benefits within one year prior to the date of the AFDC application, or within one year prior to the date ~~inapplicability ended for one of the parents the cause of dependency changed to unemployment of the parent.~~
- 2) The principal wage earner has at least six work quarters within any consecutive 13 calendar quarters within 16 calendar quarters immediately preceding the quarter during which application for AFDC is made or the date ~~inapplicability ended for one of the parents cause of dependency changed to unemployment of the parent. No more than four (4) of the six (6) may be quarters of work defined in subsection (f)(2)(B)(iii) below.~~

A) A "calendar quarter" is defined as three calendar months:

January through March,
April through June,
July through September, or
October through December

B) A "work quarter" is defined as a calendar quarter in which the parent:

- i) Earned at least \$50; or
- ii) Participated in the ~~Work-Demonstration Program (WDP) or Project Chance~~ Program (see Sections 112.70 thru 112.83); or
- iii) Attended full-time an elementary or secondary school or an approved

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 112.64 Unemployment of the Parent (Cont'd)

vocational or technical training course that is designed to prepare the parent for gainful employment or participated in an education or training program established under the Job Training Partnership Act (JTPA) (29 U.S.C. 1501 et seq.).

C) The principal wage earner performed work which would have qualified him for Unemployment Insurance Benefits if he had applied. The determination of whether he would have qualified is made by establishing that during any consecutive four of the first eight of the nine calendar quarters immediately preceding the quarter in which AFDC-U application is made, or that during any consecutive four of the first eight of the nine calendar quarters immediately preceding the quarter in which ~~inapplicability ended for one of the parents, the cause of dependency changed to unemployment of the parent.~~ the parent:

- i) Earned a total of at least \$1600 gross, and
- ii) Earned at least \$440 gross in 3 of the 4 quarters excluding the quarter in which the earnings were the highest.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

1) The Heading of the Part: AID TO THE AGED, BLIND OR DISABLED

2) Code Citation: 89 Ill. Adm. Code 113

3) Section Number: Proposed Action:
113.141 Amendment

4) Statutory Authority: Sections 3-1.2, 3-2 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 3-1.2, 3-2 and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This amendment eliminates dollar value limitations on personal effects, household goods and a motor vehicle for purposes related to the prevention of spousal impoverishment determination.

6) Will this Proposed Amendment replace an Emergency Amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date?
Yes X No

8) Does this Proposed Amendment contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
113.251	Amendment	September 28, 1990 (14 Ill. Reg. 15701)
113.303	Amendment	September 28, 1990 (14 Ill. Reg. 15701)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Anita Williams, Staff Attorney, Office of the General Counsel, Illinois

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NOTICE OF PROPOSED AMENDMENT

Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762 (217) 782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis: This rulemaking has no effect on small businesses.

The full text of the Proposed Amendment begins on the next page:

TITLE 89: SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

NOTICE OF PROPOSED AMENDMENT

Section
113.1 Description of the Assistance Program
113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Client Cooperation
Citizenship
Residence
Age
Blind
Disabled
Living Arrangement
Institutional Status
Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
113.9 Unearned Income
113.10 Budgeting Unearned Income
113.101 Budgeting Unearned Income of Applicants Receiving
113.102 Income On Date of Application And/Or Date of Decision
113.103 Initial Receipt of Unearned Income
113.104 Termination of Unearned Income
113.105 Unearned Income In-Kind
113.106 Earmarked Income
113.107 Lump Sum Payments and Income Tax Refunds
113.108 Protected Income
113.109 Earned Income
113.110 Budgeting Earned Income
113.111 Protected Income
113.112 Earned Income
113.113 Budgeting Earned Income
113.114 Budgeting Earned Income of Applicants Receiving
113.115 Income On Date of Application And/Or Date of Decision
113.116 Initial Employment
Budgeting Earned Income For Contractual Employees

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section
113.117 Budgeting Earned Income For Non-contractual School
Employees
113.118 Termination of Employment
113.120 Exempt Earned Income
113.125 Recognized Employment Expenses
113.130 Income From Work/Study/Training Programs
113.131 Earned Income From Self-Employment
113.132 Earned Income From Roomer and Boarder
113.133 Earned Income From Rental Property
113.134 Earned Income In-Kind
113.139 Payments from the Illinois Department of Children
and Family Services
113.140 Assets
113.141 Exempt Assets
113.142 Asset Disregard
113.143 Deferral of Consideration of Assets
113.154 Property Transfers For Applications Filed Prior To
October 1, 1989
113.155 Property Transfers For Applications Filed On Or
After October 1, 1989
113.156 Court Ordered Child Support Payments of
Parent/Step-Parent
113.157 Sponsors of Aliens
113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

Section
113.245 Payment Levels for AABD
113.246 Personal Allowance
113.247 Personal Allowance Amounts
113.248 Shelter
113.249 Utilities and Heating Fuel
113.250 Laundry
113.251 Telephone
113.252 Transportation, Lunches, Special Fees
113.253 Allowances for Increase in SSI Benefits
113.254 Nursing Care or Personal Care in Home Not Subject to
Licensing
113.255 Sheltered Care in a Licensed Group Care Facility
113.256 Shopping Allowance
113.257 Special Allowances for Blind and Partially Sighted
(Blind Only)
113.258 Home Delivered Meals
113.259 AABD Fuel and Utility Allowances By Area
113.260 Sheltered Care Rates

NOTICE OF PROPOSED AMENDMENT

Section
113.261 Cases in Licensed Intermediate Care Facilities,
Licensed Skilled Nursing Facilities, DMHDD
Facilities and All Other Licensed Medical Facilities

SUBPART E: OTHER PROVISIONS

Section
113.300 Persons Who May Be Included In the Assistance Unit

Section
113.301 Grandfathered Cases
113.302 Interim Assistance
113.303 Special Needs Authorizations
113.304 Retrospective Budgeting
113.305 Budgeting Schedule
113.306 Purchase and Repair of Household Furniture
113.307 Property Repairs and Maintenance
113.308 Excess Shelter Allowance
113.320 Redetermination of Eligibility
113.500 Attorney's Fees for SSI Appellants

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq. and 12-13)

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4

NOTICE OF PROPOSED AMENDMENT

Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 8041 effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16,

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

1984; amended (by sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867, effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 6996, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3,

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1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.141 Exempt Assets

a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:

1) Homestead property

2) Personal Property

A) Personal effects extraordinarily and household goods of reasonable value (reasonable value means the client's equity value in such property does not exceed \$2,000). Wedding and engagement rings and items required due to medical or physical condition.

B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).

3) Resources (e.g., land, buildings, equipment and supplies or tools) necessary for self-support up to \$6,000 of the individual's equity in the income producing property, provided the property produces a net annual income of at least 6% of the excluded equity value of the property. The equity value in excess of \$6,000 is applied toward the asset disregard. If the activity produces income less than 6% of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to 6% of the equity value (e.g., the medical prognosis is that the

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 113.141 Exempt Assets (Cont'd)

individual is expected to respond to treatment or drought resistance corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to see if the 6% rule is met and then the amount of the individual's equity in all of those properties are totalled to see if the total equity is \$6,000 or less.

4) Automobile

A) exclude one automobile, regardless of value, used by the client, spouse, or other dependent if:

- i) it is necessary for employment;
- ii) it is necessary for the medical treatment of a specific or regular medical problem;
- iii) it is modified for operation by or transportation of a handicapped person; or
- iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or

v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).

B) if not excluded in subsection (a)(4)(A) above exclude one automobile to the extent the fair market value does not exceed \$4500. Apply the excess fair market value toward the asset disregard (see Section 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).

C) for all other automobiles, apply the equity value (fair market value minus any

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 113.141 Exempt Assets (Cont'd)

encumbrance) toward the asset disregard (see Section 113.142).

- 5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If total face value exceeds \$1,500, the cash surrender value must be counted as a resource.

b) Burial spaces and funds are exempt as follows:

- 1) Burial spaces which are intended for the use of the individual, his or her spouse, or any other member of his or her immediate family (i.e., immediate family is defined as an individual's minor and adult children, including adopted children and step-children, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals).

- 2) Funds set aside for the burial expenses of the individual and his or her spouse, subject to a limit of \$1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement which are available for burial expenses.

- 3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements which occurred the earlier of the date of first SSI eligibility or the date of AABD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1231(b)(5)(1989)).

c) Assets necessary for fulfillment of an approved plan for achieving self support.

d) Trust funds are exempt as follows:

- 1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.
- 2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program (Section

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Section 113.141 Exempt Assets (Cont'd)

5-118 of the Mental Health and Developmental Disabilities Code, Ill. Rev. Stat. 1989, ch. 91 1/2, par. 5-118).

- e) Assets excluded by express provision of 20 CFR 416.1236(1989).
 - f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (e.g., not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.
 - g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.
- (Source: Amended at 14 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) The Heading of the Part: Medical Payments

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers: Proposed Action:

140.850 New Section
140.855 New Section
140.860 New Section
140.865 New Section
140.870 New Section
140.875 New Section
140.880 New Section
140.885 New Section
140.890 New Section
140.895 New Section
140. Table K New Section
140. Table L New Section

4) Statutory Authority: Sections 5-5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5.1 et seq. and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This proposed rule specifies the qualifications and requirements of all parties involved in Medicaid partnerships, outlines service requirements and the payment methodology.

6) Will these Proposed Amendments replace Emergency Amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ☒ No

8) Do these Proposed Amendments contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
140.17	Amendment	November 30, 1990 (14 Ill. Reg. 18982)
140.485	Amendment	September 7, 1990 (14 Ill. Reg. 14317)

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Section Numbers	Proposed Action	Illinois Register Citation
140.486	Repealed	September 7, 1990 914 Ill. Reg. 14317)
140.487	Amendment	September 7, 1990 (14 Ill. Reg. 14317)
140.488	New Section	September 7, 1990 (14 Ill. Reg. 14317)
140.523	Amendment	September 14, 1990 (14 Ill. Reg. 14681)
140.529	Amendment	July 20, 1990 (14 Ill. Reg. 11672)
140.539	Amendment	July 6, 1990 (14 Ill. Reg. 10629)
140.562	Amendment	August 31, 1990 (14 Ill. Reg. 13963)
140.Table A	Repealed	September 7, 1990 (14 Ill. Reg. 14317)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Daniel Leikvold, Office of the General Counsel, Illinois Department of Public Aid, 100 South Grand Avenue East, Springfield, Illinois 62762 (217/782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

- A) Date Proposed Amendments were submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 3, 1990
- B) Types of small businesses affected: Medical Providers

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- C) Reporting, bookkeeping or other procedures required for compliance: No new procedures required
- D) Types of professional skills necessary for compliance: No new skills required

The full text of the Proposed Amendments begin on the next page:

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section	
140.1	Incorporation By Reference
140.2	Medical Assistance Programs
140.3	Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Infants Under Age One Year Who Do Not Qualify As Mandatory Categorically Needy
140.4	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under GA and AMI
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Six
140.8	Medical Assistance For Qualified Severely Impaired Individuals
140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Incarcerated Persons
SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL	
Section	
140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
140.15	Recovery of Money
140.16	Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

DEPARTMENT OF PUBLIC AID

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Section	
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring Submittal of Claims
140.20	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.21	Magnetic Tape Billings
140.22	Payment of Claims
140.23	Payment Procedures
140.24	Overpayment or Underpayment of Claims
140.25	Payment to Factors Prohibited
140.26	Assignment of Vendor Payments
140.27	Record Requirements for Medical Providers
140.28	Audits
140.30	False Reporting and Other Fraudulent Activities
140.35	Prior Approval for Medical Services or Items
140.40	Prior Approval in Cases of Emergency
140.41	Limitation on Prior Approval
140.42	Post Approval for items or Services When Prior Approval Cannot Be Obtained
140.43	Drug Manual (Recodified)
140.71	Drug Manual (Recodified)
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)
SUBPART C: HOSPITAL SERVICES	
Section	
140.94	Hospital Services (Recodified)
140.95	Participation (Recodified)
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill.

Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737,

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effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.914 and 140.915 Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.206 A and 147.207 B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12

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111. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7025, effective April 24, 1989; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990;

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emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART F: POINT-COUNT-GUIDELINES-FOR-ICF/MR-AND
MEDICAID PARTNERSHIP PROGRAM
SNF/PED FACILITIES

Section 140.850 Facility/Client-Participation-(Revised)-
General Description

A Medicaid Partnership is a comprehensive health care delivery network established to provide medical and case management services to Medicaid clients in designated high need areas in East St. Louis and Chicago which are defined by zip code (62201, 62204, 62205, 62207, 62059, 62071, 62203, 62205, 62207, 60610, 60651, 60610, 60611, 60622, 60644, 60624, 60612, 60623, 60601-08, 60616). A Partnership is represented by a sponsoring organization, having a contractual relationship with the Department of Public Aid. The sponsoring organization shall be selected through the Request for Proposal Process. The sponsoring organization shall develop agreements among participating providers to provide care to clients. The Partnership provides incentive for physician participation through enhanced fees. Clients are not locked into Partnership providers for medical care, but they are encouraged to receive health services through them by an integrated case management system and the provision of quality medical care.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.855 Evaluation-Of-Need-For-Care-(Revised)-
Definition of Terms

- a) Partnership Sponsor: The lead entity responsible for developing and managing the Partnership network. The

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Section 140.855 Evaluation-Of-Need-For-Care-(Revised)-
Definition of Terms (Cont'd)

Department's contract is with the Partnership sponsor. The sponsor initiates agreements with other providers, such as hospitals, physicians, home health care vendors, and substance abuse programs, to present comprehensive ambulatory care services to program participants. The sponsor is also responsible for coordinating clients' medical services on an individual basis and the provision of a case management system to enable clients to secure health care.

- b) Participating Provider: Any physician, hospital, long term care facility, home health agency, drug and alcohol treatment program, or other medical provider who provides services to clients under the terms of a contract with a Partnership sponsor.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.860 Payment-(Revised)-Covered Services

- a) All Services covered under the Illinois Medical Assistance Program shall be available in targeted Partnership areas. Partnerships shall provide, at a minimum, the following medical services either directly through participating providers or indirectly through referral arrangements:

- 1) Physician primary care services and primary care services provided by certified pediatric nurse practitioners and family nurse practitioners, including office-based physician care, preventive services for children and adults, prenatal care and delivery, psychiatric services, and child optometric and audiology services;
- 2) Other physician services and specialty care;
- 3) Family planning services;
- 4) Inpatient and outpatient hospital services;
- 5) Emergency medical services;

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Section 140.860 Payment-(Revised)Covered Services (Cont'd)

- 6) Clinical laboratory services.
- 7) Acute and subacute treatment for alcohol and other drug abuse.
- 8) Home health services.
- 9) Physical therapy and related services; and
- 10) Skilled nursing services.
- b) Clients shall be able to access care through Partnerships seven days a week, twenty-four hours a day. The Partnership is not required to arrange for the provision of prescription drugs, dental services, chiropractic or podiatric care, intermediate long term care, durable medical equipment and supplies, or the services of subspecialty physicians. The Partnership shall provide assistance to clients in obtaining treatment from subspecialty physicians or purchasing needed supplies, and transfer of medical records in a timely fashion.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.865 Definitions-(Revised) Sponsor Qualifications

To qualify for sponsorship of a Medicaid Partnership, an organization shall meet the following qualifications:

- a) The organization shall be based in the State of Illinois.
- b) The organization shall be fiscally solvent as demonstrated by submission of an annual audit, performed by an independent auditing firm.
- c) The organization shall be organized to deliver medical care.
- d) The organization shall certify that it has not been convicted of bribery or of attempted bribery, nor has the organization made an admission of guilt of such conduct which is a matter of record, nor has an

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Section 140.865 Definitions-(Revised) Sponsor Qualifications (Cont'd)

- official, agent or employee of the organization been so convicted nor made such admission of bribery on behalf of the organization and pursuant to the direction of a responsible official of the organization.
- e) The organization shall certify that it has not been convicted of fraud or attempted fraud, nor has the organization made an admission of guilt of such conduct which is a matter of record, nor has an official, agent or employee of the organization been so convicted nor made such admission of fraud on behalf of the organization and pursuant to the direction of a responsible official of the organization.
 - f) The organization shall demonstrate its ability to meet the service requirements identified in Sections 140.860 and 140.870.
 - g) The organization shall employ at least five professional employees or physicians.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.870 Guidelines-(Revised) Sponsor Responsibilities

The sponsor is responsible for the following:

- a) Quality Assurance. The sponsor shall have a quality assurance program which provides for analysis of data on performance and patient results by participating physician and hospital. The sponsor's quality assurance program shall also include a utilization review component which monitors the utilization of medical services and develops methods of encouraging appropriate patterns of utilization by providers and clients.
- b) Provider Selection. The sponsor shall assure the selection of high quality participating providers.
- c) Physician Recruitment. The sponsor shall develop

Section 140.870 Guidelines-(Revised)-Sponsor Responsibilities (Cont'd)

physician participation goals and a plan for physician recruitment.

d) Other Special Services. The sponsor shall arrange for other special services for high-need individuals, including the assignment of a case manager for each pregnant woman, child under age 8, person with AIDS, person with a chronic disease, and person who is disabled and receiving care through the Partnership. The provision of other special services may be accomplished through a contracting relationship, which requires Departmental approval of the subcontractor. Other special services shall include the following:

- 1) Arrangement or direct delivery of assistance a client may need for scheduling of appointments, transportation, or child care;
- 2) Development of an individual family service plan;
- 3) Follow-up communication by telephone, in writing, or in person to provide health education and encourage compliance with treatment plans.
- 4) Arrangement for or referral to social service agencies as necessary to meet the clients needs and to eliminate environmental, behavioral, or conditional barriers to seeking and obtaining primary care services.
- 5) Referral of eligible clients to the appropriate case management program and tracking of services received.
- 6) Interaction with providers to facilitate compliance with the treatment plan prescribed by the client's physician;
- 7) Development and implementation of multi-method outreach services;
- 8) Referral of infants and toddlers with developmental delay to Early Intervention providers, and infants and toddlers with handicapping conditions to the Division of Services for Crippled Children.

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Section 140.870 Guidelines-(Revised)-Sponsor Responsibilities (Cont'd)

e) Primary Care Case Management. The sponsor shall arrange for and assure the delivery of medical services in a manner which provides for general and efficient management of a client's care. Primary care case management shall include the use of a primary physician; appropriate referrals to specialists and other needed services; specific efforts to ensure client understanding of treatment plans; and the management of inpatient care.

f) Record Maintenance. The sponsor shall maintain medical records for clients using Partnership services as required under 89 Ill. Adm. Code 140.28, and ensure the appropriate transfer of medical records when required.

g) Client Education. The sponsor shall develop health care education programs for clients on the use of health care services, and provide informational materials on the Partnership and its services, in cooperation with the Department. Educational programs shall include information on how to use the system, including use of emergency services, and information on preventive care with a special focus on pregnant women and children.

h) Reports. The sponsor shall submit reports to the Department to enable monitoring of the individual Partnership networks.

i) Administration. The sponsor shall manage the Partnership administrative and financial affairs, and provide evidence of appropriate liability insurance against the risk of malpractice claims brought against them for the operation of the Partnership network.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.875 Intermediate-Care-(ICF/MR)-Department Responsibilities

Responsibilities of the Department include:

- a) Providing information to clients living in service

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Section 140.875 Intermediate-Care-(ICF/MR)-(Revised)-Provider-Department Responsibilities (Cont'd)

areas, on behalf of Partnerships, for promotional and case management purposes:

- b) Working with Partnerships on client education initiatives;
- c) Developing case management programs in cooperation with the Partnerships; and
- d) Checking a provider's professional license status with the Department of Professional Regulation, on behalf of the sponsor.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.880 Skilled-Care-(SNF/PED)-(Revised)-Provider Qualifications

- a) Partnership providers shall meet the same minimum qualifications as are applicable for all medical providers under the Illinois Medical Assistance Program.
- b) Partnership providers shall be enrolled and in good standing with the Illinois Medical Assistance Program.
- c) Partnership physician providers shall hold delivery privileges, as appropriate, as Partnership hospitals, or a written referral agreement with another participating physician having such privileges.
- d) Partnership providers shall meet any additional qualifications or participation requirements imposed by the Partnership sponsor which are approved by the Department.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.885 Statewide-Rates-(Revised)-Provider Responsibilities

- a) Partnership providers shall accept referrals from the Partnership sponsor, the various case management entities, and other Partnership providers.

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Section 140.885 Statewide-Rates-(Revised)-Provider Responsibilities (Cont'd)

- b) Partnership providers shall provide quality care to all patients.
- c) Partnership providers shall actively participate and fully cooperate in quality assurance, peer review and utilization review activities of the Partnership.
- d) Partnership providers shall interact with case managers to assure physician input into the Individual Service Plan and patient compliance with the treatment plan.
- e) Partnership providers shall refer high risk patients to the appropriate case management entity for assessment and determination of need for case management services.
- f) Partnership providers shall meet all reporting requirements of the Partnership.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 140.890 Reimbursement-for-ICF/MR-15-and-Under-Facilities-(Revised)-Payment Methodology

- a) Participating Providers: The reimbursement structure for physicians participating in Partnerships shall be on a fee-for-service basis. In addition, participating physicians shall receive fee incentive of 10% for performing primary care services listed in Table K(1) which are provided to clients living in designated Partnership areas. For those primary care services listed in Table L, the 10% incentive for participating physicians shall be computed from the surgical incentive add-on amount.
- b) Partnership Sponsors: The Department shall compensate the Partnership sponsor for provision of case management services, provision of other special services, administrative and support services, and outreach activities. Compensation shall be negotiated based on projected volume of participants to be served.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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Section 140.895 Night-Shift-Reimbursement-(Revised)-Contract Monitoring

The Department shall monitor the provisions of each contract with each Partnership sponsor through analysis of monthly reports from the sponsor(s) and performance of an annual audit. The Department may exercise the option of using independent utilization review or other resources to monitor sponsor contracts.

(Source: Added at 14 Ill. Reg. __, effective __)

Section 140. Table K Services Qualifying for 10% Add-On

Code	Code Description
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New Patient

90000	Office medical service, new patient; brief service
90010	limited service
90015	intermediate service
90017	extended service
90020	comprehensive service

Established Patient

90030	Office medical service, established patient;
	minimal service
90040	brief service
90050	limited service
90060	intermediate service
90070	extended service
90080	comprehensive service

General Ophthalmological Services

New Patient

A patient who is new to the physician whose medical and administrative record needs to be established.

(For brief or limited services to new patient, as for minor adnexal condition, see 90000, 90010)

Ophthalmological services: medical examination and evaluation with initiation of diagnostic and treatment program; intermediate, new patient

comprehensive, new patient, one or more visit

92002

92004

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Section 140. Table K Services Qualifying for 10% Add-On (Cont'd)

Code	Code Description
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Established Patient

A patient whose medical and administrative records are available to the physician. The designation of new or established patient does not preclude the use of a specific level of service.

(For minimal, brief or limited services to an established patient, see 90030-90050)

92012	Ophthalmological services: medical examination and evaluation, with initiation or continuation of diagnostic and treatment program; intermediate, established patient
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92014	comprehensive, established patient, one or more visits
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Home Medical Services

Code	Code Description
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New Patient

90100	Home medical service, new patient; brief service
90110	limited service
90115	intermediate service
90117	extended service

Established Patient

90130	Home medical service, established patient;
	minimal service
90140	brief service
90150	limited service
90160	intermediate service
90170	extended service

Diagnostic Procedures

81000	Urinalysis, routine (ph specific gravity, protein tests for reducing substances such as glucose), with microscopy
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81002	Urinalysis routine without microscopy
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Section 140. Table K Services Qualifying for 10% Add-On
(Cont'd)

<u>Code</u>	<u>Code Description</u>	<u>Age Range</u>
<u>Diagnostic Procedures (Cont'd)</u>		
81005	Chemical, qualitative, any number of constituents	
82465	Cholesterol, serum; total	
82470	Cholesterol, serum; total and ester	
83645	Lead Screening; Blood	
84702	Gonadotropin, chorionic quantitative pregnancy test	
84703	Gonadotropin, chorionic qualitative pregnancy test	
85660	Sickle of RBC, reduction slide method	
86580	Tuberculosis intradermal	
86585	TB Time Test	
86592	Syphilis Test, qualitative	
87081	GC Culture Test, bacterial screening only	
87083	Culture, multiple organisms	
87087	Urine bacteria count, commercial kit	
87088	Urine bacteria culture, identification, in addition to colony count and commercial kit	
87110	Chlamydia Culture	
W7430	Denver DST	

<u>Code</u>	<u>Code Description</u>	<u>Age Range</u>
<u>Screenings</u>		
W7557	Screening	Birth to 2 weeks
W7558	Screening	2 weeks to 1 month
W7559	Screening	1 month to 3 months
W7560	Screening	3 months to 5 months
W7561	Screening	5 months to 8 months
W7562	Screening	8 months to 12 months
W7563	Screening	12 months to 15 months
W7564	Screening	15 months to 18 months
W7565	Screening	18 months to 2 years
W7566	Screening	2 years to 4 years
W7567	Screening	4 years to 6 years
W7568	Screening	6 years to 8 years
W7569	Screening	8 years to 10 years
W7575	Screening	10 years to 12 years
W7576	Screening	12 years to 14 years
W7577	Screening	14 years to 16 years
W7578	Screening	16 years to 18 years
W7579	Screening	18 years to 21 years
W7588	Make-up Visit	Birth to 21 years

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Section 140. Table K Services Qualifying for 10% Add-On
(Cont'd)

<u>Code</u>	<u>Code Description</u>	<u>Age Range</u>
<u>Screenings (Cont'd.)</u>		
W7570	Headstart/Day Care Health Exam	2 years to 6 years
W7571	Athletic Health Exam	3 years thru 20 years
W7572	Camp Health Exam	Birth thru 20 years
W7573	WIC Health Exam	Birth thru 5 years
W7574	DCFS Health Exam	Birth thru 20 years
W7453	School Health Exam	Birth thru 20 years
W7593	Follow-up Visit	Birth thru 20 years
<u>Health Insurance Claim Form (DPA 2360) enter X in 23A EPSDT Yes when using above codes.</u>		

Healthy Kids Make-up Visit may be billed when diagnostic procedures or immunizations are provided at a separate visit from the periodic health screening.

Immunizations

W7403	Diphtheria, Tetanus, Pertussis (DPT 1)
W7404	DPT 2
W7402	DPT 3
W7405	DPT B1
W7406	DPT B2
W7407	Polio Virus, Live Oral (OPV 1)
W7408	OPV 2
W7409	OPV 3
W7410	OPV B1
W7411	OPV B2
W7412	DT 1
W7413	DT 2
W7414	DT 3
W7415	DT Booster 1
W7416	DT Booster 2
W7580	Measles
W7581	Rubella
W7582	Mumps
W7583	MMR
W7584	Measles, Rubella
W7585	Haemophilus B (HIB)

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Section 140. Table K Services Qualifying for 10% Add-On (Cont'd)

Immunizations (Cont'd)

Immunizations are replaced by the Illinois Department of Public Health (IDPH) based on paid claims. Providers are encouraged to participate in the replacement program. To receive replacement vaccine, providers must have a signed certification form on file with the Illinois Department of Public Health.

Health Insurance Claim Form (DPA 2360) enter X in 23A EPSDT Yes when using above codes.

Allergy Testing

95000 Percutaneous test (scratch, puncture, prick) with allergenic extracts, up to 30 tests

95001 31-60 tests
95002 61-90 tests
95003 more than 90 tests

95005 Percutaneous tests (scratch, puncture, prick) with biologicals, stinging insects, 1-5 tests

95006 6-10 tests
95007 11-15 tests
95011X more than 15 tests

95014 Intracutaneous (intradermal) tests, with antibiotics, biologicals, stinging insects, immediate reaction 15-20 minutes; 1-5 tests

95016 6-10 tests
95017 11-15 tests
95018X more than 15 tests

95020 Intracutaneous (intradermal) tests with allergic extracts, immediate reaction 15-20 minutes; up to 10 tests

95021 11-20 tests
95022 21-30 tests
95023 more than 30 tests

95030 Intracutaneous (intradermal) tests with allergic extracts, delayed reaction 24 to 72 hours, including reading, 2 tests

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Section 140. Table K Services Qualifying for 10% Add-On (Cont'd)

Code Code Description

Allergy Testing (Cont'd)

95031 3-4 tests
95032 5-6 tests
95033 7-8 tests
95034 more than 8 tests

95040 Patch or application tests: up to 10 tests

95041 11-20 tests
95042 21-30 tests
95043 more than 30 tests

95050 Photo patch tests, up to 10 tests

95051 more than 10 tests

Allergy Immunotherapy

95115 Professional services for allergen immunotherapy not including provision of allergenic extracts; single injection

95117 multiple injections

95120 Professional services for allergen immunotherapy in prescribing physician's office or institution, including provision of allergenic extract; single antigen

95125 multiple antigens (specify number of injections)

Psychiatric Procedures

90801 Psychiatric diagnosis interview examination including history, mental status, or disposition (may include communication with family or other sources, ordering and medical interpretation of laboratory or other medical diagnostic studies); in certain circumstances, other informants will be seen in lieu of the patient; 50 minutes minimum.

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Section 140. Table K Services Qualifying for 10% Add-On
(Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Psychiatric Procedures (Cont'd.)</u>	
90835	Narcosynthesis for psychiatric diagnostic and therapeutic purposes; e.g., amytal interview.
W7460	Psychiatric Consultation - includes psychiatric history, mental status, diagnosis, conference with primary physician; 50 minutes minimum.
90843	Individual medical psychotherapy, with continuing medical diagnostic evaluation, and drug management when indicated, including psychoanalysis, insight oriented, behavior modifying or supportive psychotherapy; 20 minutes minimum.
90844	Individual medical psychotherapy, with continuing medical diagnostic evaluation, and drug management when indicated, including psychoanalysis, insight oriented, behavior modifying or supportive psychotherapy; 45 minutes minimum.
90847	Family medical psychotherapy (conjoint psychotherapy) with continuing medical diagnostic evaluation, and drug management when indicated; 45 minutes minimum.
90849	Multiple-family group medical psychotherapy, with continuing medical diagnostic evaluation, and drug management when indicated, 45 minutes minimum.
W7464	Basic daily inpatient psychiatric care, time unspecified.
90853	Group medical psychotherapy, (other than of a multiple-family group) with continuing medical diagnostic evaluation, and drug management when indicated, 60 minutes minimum, maximum 8 persons.
90862	Chemotherapy management, including prescription, use and review of medication with no more than minimum medical psychotherapy.
90870	Electroconvulsive therapy.

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Section 140. Table K Services Qualifying for 10% Add-On
(Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Function Tests (Audiological With Medical Diagnostic Evaluation)</u>	
92551	Screening test, pure tone, air only
92552	Pure tone audiometry (threshold); air only
92553	air and bone
92555	Speech audiometry; threshold only
92557	Basic comprehensive audiometry (pure tone, air and bone, and speech, threshold and discrimination)
<u>Other Services</u>	
W7454	Family Planning Visit
59420	Prenatal visit
59430	Postpartum care
82270	Blood; occult feces, screening
90702	Diphtheria and tetanus toxoids (adult)
90724	Influenza virus vaccine
(Source: Added at 14 Ill. Reg. _____, effective _____)	
<u>140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On</u>	
The surgical incentive add-on is described in the Physician's Handbook, Appendix A-25, Groups I, II and III. A 10% incentive will be computed on the surgical incentive add-on amount.	

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140. Table I Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I</u>	
10003	Incision and drainage of infected or noninfected epithelial inclusion cyst ("sebaceous cyst") with complete removal of sac and treatment of cavity
11100	Biopsy of skin, subcutaneous tissue and/or mucous membrane (including simple closure), unless otherwise listed (separate procedure); one lesion
11200	Excision (including simple closure or ligature strangulation), skin tags, multiple fibrocutaneous tags, any area; up to 15
11400	Excision, benign lesion, except skin tag (unless listed elsewhere), trunk, arms or legs; lesion diameter up to 0.5 cm
11401	lesion diameter 0.5 to 1.0 cm
11402	lesion diameter 1.1 to 2.0 cm
11403	lesion diameter 2.1 to 3.0 cm
11404	lesion diameter 3.1 to 4.0 cm
11406	lesion diameter over 4.0 cm
11420	Excision, benign lesion, except skin tag (unless listed elsewhere), scalp, neck, hands, feet, genitalia; lesion diameter up to 0.5 cm
11421	lesion diameter 0.6 to 1.0 cm
11422	lesion diameter 1.1 to 2.0 cm
11423	lesion diameter 2.1 to 3.0 cm
11424	lesion diameter 3.1 to 4.0 cm
11426	lesion diameter over 4.0 cm

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NOTICE OF PROPOSED AMENDMENTS

140. Table I Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
11440	Excision, other benign lesion (unless listed elsewhere), face, ears, eyelids, nose, lips, mucous membrane; lesion diameter up to 0.5 cm
11441	lesion diameter 0.6 to 1.0 cm
11442	lesion diameter 1.1 to 2.0 cm
11443	lesion diameter 2.1 to 3.0 cm
11444	lesion diameter 3.1 to 4.0 cm
11446	lesion diameter over 4.0 cm
11600	Excision, malignant lesion, trunk, arms or legs; lesion diameter up to 0.5 cm
11601	lesion diameter 0.6 to 1.0 cm
11602	lesion diameter 1.1 to 2.0 cm
11603	lesion diameter 2.1 to 3.0 cm
11604	lesion diameter 3.1 to 4.0 cm
11606	lesion diameter over 4.0 cm
11620	Excision, malignant lesion, scalp, neck, hands, feet, genitalia; lesion diameter up to 0.5 cm
11621	lesion diameter 0.6 to 1.0 cm
11622	lesion diameter 1.1 to 2.0 cm
11623	lesion diameter 2.1 to 3.0 cm
11624	lesion diameter 3.1 to 4.0 cm
11626	lesion diameter over 4.0 cm
11640	Excision, malignant lesion, face, ears, eyelids, nose, lips; lesion diameter up to 0.5 cm

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
11641	lesion diameter 0.6 to 1.0 cm
11642	lesion diameter 1.1 to 2.0 cm
11643	lesion diameter 2.1 to 3.0 cm
11644	lesion diameter 3.1 to 4.0 cm
11646	lesion diameter over 4.0 cm
11730	Avulsion of nail plate, partial or complete, simple; single
11760	Reconstruction of nail bed; simple
11762	complicated
11900	Injection, intralesional; up to and including seven lesions
12001	Simple repair of superficial wounds of scalp, neck, axillae, external genitalia, trunk and/or extremities (including hands and feet); up to 2.5 cm
12002	2.6 cm to 7.5 cm
12004	7.6 cm to 12.5 cm
12005	12.6 cm to 20.0 cm
12006	20.1 cm to 30.0 cm
12011	Simple repair of superficial wounds of face, ears, eyelids, nose, lips and/or mucous membranes; up to 2.5 cm
12013	2.6 cm to 5.0 cm
12014	5.1 cm to 7.5 cm
12015	7.6 cm to 12.5 cm

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
12016	12.6 cm to 20.0 cm
12017	20.1 cm to 30.0 cm
12020	Treatment of superficial wound dehiscence; simple closure
12021	with packing
12031	Layer closure of wounds of scalp, axillae, trunk and/or extremities (excluding hands and feet); up to 2.5 cm
12032	2.6 cm to 7.5 cm
12034	7.6 cm to 12.5 cm
12035	12.6 cm to 20.0 cm
12036	20.1 cm to 30.0 cm
12041	Layer closure of wounds of neck, hands, feet and/or external genitalia; up to 2.5 cm
12042	2.6 cm to 7.5 cm
12044	7.6 cm to 12.5 cm
12045	12.6 cm to 20.0 cm
12046	20.1 cm to 30.0 cm
12051	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; up to 2.5 cm
12052	2.6 cm to 5.0 cm
12053	5.1 cm to 7.5 cm
12054	7.6 cm to 12.5 cm
12055	12.6 cm to 20.0 cm

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group I (Cont'd)	
12056	20.1 cm to 30.0 cm
16020	Initial treatment, first degree burn, when no more than local treatment is required without anesthesia, office or hospital, small
20000	Incision of soft tissue abscess (e.g., secondary to osteomyelitis); superficial
20005	deep or complicated
20200	Biopsy, muscle, superficial
20205	deep
20206	Biopsy, muscle, percutaneous needle
20520	Removal of foreign body in muscle or tendon sheath; simple
20600	Arthrocentesis, aspiration and/or injection; small joint, bursa or ganglion cyst (e.g., fingers, toes)
20605	intermediate joint, bursa or ganglion cyst (e.g., temporomandibular, acromioclavicular, wrist, elbow or ankle, olecranon bursa)
20610	major joint or bursa (e.g., shoulder, hip, knee joint, subacromial bursa)
21501	Incision and drainage, deep abscess or hematoma, soft tissues of neck or thorax
21550	Excisional biopsy, soft tissue of neck or thorax
21555	Excision tumor soft tissue of neck or thorax; subcutaneous
21920	Biopsy, soft tissues of back or flank; superficial
21925	deep

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group I (Cont'd)	
23030	Incision and drainage; deep abscess or hematoma
23031	infected bursa
23065	Biopsy, soft tissues of shoulder area; superficial
23066	deep
23330	Removal of foreign body shoulder; subcutaneous
23930	Incision and drainage upper arm or elbow area; deep abscess or hematoma
23931	infected bursa
24065	Biopsy, soft tissue of upper arm or elbow; superficial
24066	deep
25028	Incision and drainage forearm and/or wrist; deep abscess or hematoma
25031	infected bursa
25065	Biopsy, soft tissue of forearm and/or wrist; superficial
25066	deep
26990	Incision and drainage pelvis or hip joint area; deep abscess or hematoma
26991	infected bursa
27040	Biopsy, soft tissue of pelvis and hip area; superficial
27041	deep
27086	Removal of foreign body pelvis or hip; subcutaneous tissue
27087	deep

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140.Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group I (Cont'd)	
27323	Biopsy, soft tissue of thigh or knee area; superficial
27324	deep
27603	Incision and drainage leg or ankle; deep abscess or hematoma
27604	infected brusa
27613	Biopsy, soft tissue of leg or ankle area; superficial
27614	deep
28001	Incision and drainage, infected bursa, foot
28190	Remove foreign body foot; subcutaneous
28192	deep
29085	Cast hand and lower forearm (gauntlet)
29105	Application of long arm splint (shoulder to hand)
29125	Application of short arm splint (forearm to hand); static
29126	dynamic
29130	Application of finger splint; static
29131	dynamic
29450	Application of clubfoot cast with moldings or manipulation, long or shortleg; unilateral
29505	Application of long leg splint (thigh to ankle or toes)
29515	Application of short leg splint (calf to foot)
30000	Drainage abscess or hematoma, nasal, internal approach
30020	Drainage abscess or hematoma, nasal septum

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140.Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group I (Cont'd)	
30100	Biopsy, intranasal
30110	Excision, nasal polyp(s), simple, unilateral
30111	bilateral
30124	Excision dermoid cyst, nose; simple, skin, subcutaneous
30903	Control nasal hemorrhage, anterior, complex (cauterization with local anesthesia and packing); unilateral
30904	bilateral
30905	Control nasal hemorrhage, posterior, with posterior nasal packs; initial
30906	subsequent
31515	Laryngoscopy direct; for aspiration
31525	diagnostic, except newborn
31526	diagnostic, with operating microscope
31527	with insertion of obturator
31528	with dilatation, initial
31529	with dilatation, subsequent
36470	Injection of sclerosing solution; single vein
36471	multiple veins, same leg
38300	Drainage of lymph node abscess or lymphadenitis; simple
38305	extensive
38500	Biopsy or excision of lymph node(s); superficial (separate procedure)

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
<u>Group I (Cont'd)</u>	
38505	by needle, superficial (e.g. cervical, inguinal, axillary)
40490	Biopsy lip
40800	Drainage of abscess, cyst, hematoma, vestibule of mouth; simple
40804	Removal of embedded foreign body vestibule of mouth; simple
40806	Incision of labial frenum (frenotomy)
40808	Biopsy, vestibule of mouth
40810	Excision of lesion of mucosa and submucosa vestibule of mouth; without repair
40812	with simple repair
40820	Destruction of lesion or scar by physical methods (e.g., laser, thermal, cryo, chemical)
48030	Closure of laceration vestibule of mouth; 2.5 cm or less
40831	over 2.5 cm or complex
41000	Intraoral incision and drainage of abscess, cyst, or hematoma of tongue or floor of mouth; lingual
41005	sublingual, superficial
41007	submental space
41008	submandibular space
41010	Incision of lingual frenum (frenotomy)
41015	Incision and drainage of extraoral abscess, cyst, or hematoma of floor of mouth; sublingual

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
<u>Group I (Cont'd)</u>	
41016	submental
41017	submandibular
41100	Biopsy tongue; anterior two-thirds
41105	posterior one-third
41108	Biopsy of floor of mouth
41110	Excision of lesion of tongue without closure
41800	Drainage abscess, cyst, hematoma from dentoalveolar structures
41805	Removal of embedded foreign body; from dentoalveolar structure soft tissues
42000	Drainage of abscess of palate, uvula
42160	Destruction of lesion, palate or uvula (thermal, cryo or chemical)
42300	Drainage of abscess; parotid, simple
42310	Drainage abscess; submaxillary or sublingual, intraoral
42320	submaxillary, external
42400	Biopsy salivary gland, needle
42650	Dilation salivary duct
42660	Dilation and catheterization of salivary duct, with or without injection
43760	Change of gastrostomy tube
45300	Proctosigmoidoscopy; diagnostic (separate procedure)
45302	for collection of specimen by brushing or washing

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
45303	for dilation, direct, instrumental
45305	for biopsy
45307	for removal of foreign body
45310	for removal of polyp or papilloma
45315	for removal of multiple excrescences, papillomata or polyps
45317	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
45321	for decompression of vulvulus
46083	Incision of thrombosed hemorrhoid, external
46210	Cryptectomy: single
46211	multiple (separate procedure)
46220	Papillectomy or excision of single tab, anus (separate procedure)
46221	Hemorrhoidectomy, by simple ligature (e.g., rubber band)
46230	Excision of external hemorrhoid tabs and/or multiple papillae
46320	Enucleation or excision of external thrombotic hemorrhoid
46500	Injection of sclerosing solution, hemorrhoids
46600	Anoscopy; diagnostic (separate procedure)
46602	for collection of specimen by brushing or washing
46604	for dilation, direct, instrumental

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
46606	for biopsy
46608	for removal of foreign body
46610	for removal of polyp
46612	for multiple polyp removal
46614	with coagulation for control of hemorrhage and/or fulguration of mucosal lesion
46900	Destruction of lesion(s), anus (e.g., condyloma, papilloma, molluscum contagiosum, herpetic vesicle), simple; chemical
46910	electrodesiccation
46922	surgical excision
46924	Destruction of lesion(s), anus (e.g., condyloma, papilloma, molluscum contagiosum, herpetic vesical), extensive, any method
46940	Curettage or cauterization of anal fissure, including dilation of anal sphincter (separate procedure); initial
46942	subsequent
46945	Ligation of internal hemorrhoids; single procedure
50684	Injection procedure for ureterography or ureteropyelography through ureterostomy or indwelling ureteral catheter (separate procedure)
50690	Injection procedure for visualization of ilial conduit and/or ureteropyelography, exclusive of radiologic service (separate procedure)
51600	Injection procedure of cystography or voiding urethrocytography

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140. Table I Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group I (Cont'd)	
51605	Injection procedure and placement of chain for contrast and/or chain urethrocytography
51610	Injection procedure for retrograde urethrocytography
51700	Bladder irrigation, simple, lavage and/or instillation
51705	Change of cystostomy tube; simple
51710	complicated
51720	Bladder instillation of anticarcinogenic agent
53020	Meatotomy, cutting of meatus (separate procedure); except infant
53025	infant
53040	Drainage of deep periurethral abscess
53060	Drainage of Skene's gland abscess or cyst
53080	Drainage of perineal urinary extravasation; uncomplicated (separate procedure)
53200	Biopsy of urethra
54000	Slitting of prepuce, dorsal or lateral; (separate procedure); newborn
54001	except newborn
54015	Incision and drainage of penis, deep
54050	Destruction of lesion(s), penis (e.g., condyloma, papilloma, molluscum contagiosum, herpetic vesicle), simple; chemical
54055	electrodesiccation
54056	cryosurgery

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140. Table I Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group I (Cont'd)	
54057	laser surgery
54060	surgical excision
54100	Biopsy of penis; cutaneous (separate procedure)
54105	deep structures
54500	Biopsy of testis, needle (separate procedure)
54505	Biopsy of testis, incisional (separate procedure); unilateral
54506	bilateral
54700	Incision and drainage of epididymis, testis and/or scrotal space (e.g., abscess or hematoma)
55000	Puncture aspiration of hydrocele tunica vaginalis, with or without injection of medication
55100	Drainage of scrotal wall abscess
55120	Removal of foreign body in scrotum
55700	Biopsy, prostate, needle or punch, single or multiple, any approach
56000	Incision and drainage of perineal abscess (nonobstetrical)
56100	Biopsy of perineum (separate procedure)
56400	Incision and drainage, abscess of vulva, extensive
56420	Incision and drainage of Bartholin's gland abscess, unilateral
56501	Destruction of lesion(s), vulva, simple; any method
56515	extensive, any method

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
56600	Biopsy of vulva
56700	Hymenectomy, partial excision of hymen
56720	Hymenectomy, simple incision
57020	Colpocentesis (separate procedure)
57061	Destruction of vaginal lesion(s); simple any method
57065	extensive, any method
57100	Biopsy of vaginal mucosa; simple (separate procedure)
57105	extensive, requiring suture (including cysts)
57135	Excision of vaginal cyst or tumor
57180	Introduction of any hemostatic agent or pack for spontaneous or traumatic hemorrhage nonobstetrical vaginal hemorrhage (separate procedure)
57500	Biopsy, single or multiple, or local excision of lesion, with or without fulguration (separate procedure)
60000	Incision and drainage of thyroglossal cyst, infected
60100	Biopsy of thyroid, percutaneous needle
65270	Repair of laceration; conjunctiva, with or without nonperforating laceration sclera, direct closure
65272	conjunctiva, by mobilization and rearrangement, without hospitalization
65410	Biopsy of cornea
65430	Scraping of cornea, diagnostic, for smear and/or culture
67415	Transconjunctival or aspirational biopsy

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group I (Cont'd)</u>	
67800	Excision of chalazion; single
67801	multiple, same lid
67805	multiple, different lids
67810	Biopsy of eyelid
67840	Excision of lesion of eyelid (except chalazion) without closure or with simple direct closure
67930	Suture of recent wound, eyelid, involving lid margin, tarsus, and/or palpebral conjunctiva) direct closure; partial thickness
67935	full thickness
67938	Removal of embedded foreign body, eyelid
68020	Incision of conjunctiva, drainage of cyst
68040	Expression of conjunctiva follicles, e.g., for trachoma
68100	Biopsy of conjunctiva
68400	Incision, drainage of lacrimal gland
68420	Incision, drainage of lacrimal sac (dacryocystostomy or dacryocystotomy)
68440	Snip incision of lacrimal punctum
68510	Biopsy of lacrimal gland
68525	Biopsy of lacrimal sac
68530	Removal of foreign body or dacryolith, lacrimal passages
69000	Drainage external ear, abscess or hematoma; simple
69005	complicated

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
<u>Group I (Cont'd)</u>	
69020	Drainage external auditory canal, abscess
69100	Biopsy external ear
69105	Biopsy external auditory canal
69420	Myringotomy including aspiration and/or eustachian tube inflation
69540	Excision aural polyp
69550	Excision aural glomus tumor; transcanal
<u>Group II</u>	
11750	Excision of nail and nail matrix, partial or complete (e.g., ingrown or deformed nail) for permanent removal;
11752	with amputation of tuft of distal phalanx
11770	Excision of pilonidal cyst or sinus; simple
	Burns, local treatment dressings and/or debridement, initial or subsequent;
16025	without anesthesia, medium (e.g., whole face or whole extremity)
16030	without anesthesia, large (e.g., more than one extremity)
16035	Escharotomy
25111	Excision of ganglion, wrist (dorsal or volar); primary
25112	recurrent
26160	Excision of lesion of tendon sheath or capsule (e.g., cyst or ganglion), hand or finger

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
<u>Group II (Cont'd)</u>	
28090	Excision of lesion of tendon or fibrous sheath or capsule (including synovectomy cyst or ganglion); foot
28092	toes
NOTE: When the cast application or strapping is a replacement procedure used during or after the period of follow-up care, the following cast procedures are eligible for the add-on.	
29049	Application; plaster figure of eight
29055	shoulder spica
29058	plaster Velpeau
29065	shoulder to hand (long arm)
29075	elbow to finger (short arm)
29345	Application of long leg cast (thigh to toes);
29355	walker or ambulatory type
29358	Application of long leg cast brace
29365	Application of cylinder cast (thigh to ankle)
29405	Application of short leg cast (below knee to toes);
29425	walking or ambulatory type
29435	Application of patellar tendon bearing (PTB) cast
29455	Application of clubfoot cast with molding or manipulation; long or short leg; bilateral
31530	Laryngoscopy, direct, operative, with foreign body removal;
31531	with operating microscope
31535	Laryngoscopy, direct, operative, with biopsy;

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group II (Cont'd)	
31536	with operating microscope
31540	Laryngoscopy, direct, operative, with excision of tumor and/or stripping of vocal cords or epiglottitis;
31541	with operating microscope
31560	Laryngoscopy, direct, operative, with arytenoidectomy;
31561	with operating microscope
31570	Laryngoscopy, direct, with injection into vocal cord(s), therapeutic;
31571	with operating microscope
31575	Laryngoscopy, flexible fiberoptic; diagnostic
31576	with biopsy
31577	with removal of foreign body
31578	with removal of lesion
31820	Surgical closure tracheostomy or fistula; without plastic repair
32000	Thoracentesis, puncture of pleural cavity for aspiration, initial or subsequent
32400	Biopsy, pleura; percutaneous needle
32405	Biopsy, lung or mediastinum, percutaneous needle
32420	Pneumonocentesis, puncture of lung for aspiration
40816	Excision of lesion of mucosa, submucosa, and underlying muscle, vestibule of mouth, complex
41250	Repair laceration up to 2.5 cm or less; floor of mouth and/or anterior two-thirds of tongue

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group II (Cont'd)	
41251	posterior one-third tongue
41252	Repair laceration of tongue, floor of mouth, over 2.6 cm or complex
42100	Biopsy of palate, uvula
42104	Excision, lesion of palate, uvula; without closure
42330	Sialolithotomy; submandibular (submaxillary), sublingual or parotid, uncomplicated, intraoral
42405	Biopsy salivary gland incisional
42408	Excision sublingual salivary cyst (ranula)
42409	Marsupialization sublingual salivary cyst (ranula)
42700	Incision and drainage abscess; peritonsillar
42800	Biopsy; oropharynx
42802	hypopharynx
42804	nasopharynx, visible lesion, simple
42806	nasopharynx, survey for unknown primary lesion
42808	Excision of lesion of pharynx
42809	Removal of foreign body from pharynx
42860	Excision of tonsil tags
42870	Excision lingual tonsil (separate procedure)
42880	Excision nasopharyngeal lesion (e.g., fibroma)
42900	Suture pharynx for wound or injury
42960	Control oropharyngeal hemorrhage (primary or secondary, e.g., posttonsillectomy); simple

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group II (Cont'd)	
42970	Control of nasopharyngeal hemorrhage (primary or secondary, e.g., postadenoidectomy); simple, with posterior nasal packs, with or without anterior packs and/or cauterization
45005	Incision and drainage of submucous abscess, rectum
45330	Sigmoidoscopy, flexible fiberoptic; diagnostic
45331	for biopsy and/or collection of specimen by brushing or washing
45332	for removal of foreign body
45333	for removal of polypoid lesion(s)
45334	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
45337	for decompression of vulvulus
46030	Removal of seton, other marker
46050	Incision and drainage, perianal abscess, superficial
46250	Hemorrhoidectomy, external, complete
46916	Destruction of lesion(s), anus (e.g., condyloma, papilloma, molluscum contagiosum, herpetic vesicle) cryosurgery
46917	laser surgery
46934	Cryosurgery of hemorrhoids; internal
46935	external
46936	internal and external
46937	Cryosurgery of rectal tumor; benign

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group II (Cont'd)	
46938	malignant
49080	Peritoneocentesis, abdominal paracentesis or peritoneal lavage; initial
49081	subsequent
50396	Manometric studies through nephrostomy or pyelostomy tube, or indwelling ureteral catheter
50398	Change of nephrostomy or pyelostomy tube
50686	Manometric studies through ureterostomy or indwelling ureteral catheter
50688	Change of ureterostomy tube
53250	Excision of bulbourethral gland (Cowper's gland)
53260	Excision of fulguration; urethral polyp(s), distal urethra
53265	urethral carbuncle
53270	Skene's glands
53275	urethral prolapse
54065	Destruction of lesion(s), penis, (e.g., condyloma, papilloma, molluscum contagiosum, herpetic vesicle) extensive, any method
54152	Circumcision, clamp procedure; except newborn
54161	Circumcision, surgical excision other than clamp or dorsal slit; except newborn
56515	Destruction of lesion(s), vulva, extensive, any method
57200	Colporrhaphy, suture of injury of vagina(nonobstetrical)

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group II (Cont'd)	
57210	Colpoperineorrhaphy, suture of injury of vagina and/or perineum (nonobstetrical)
57454	Colposcopy (vaginocopy); (separate procedure) with biopsies, or biopsy of the cervix
58100	Endometrial biopsy, suction type (separate procedure)
58101	Endometrial washings (e.g., for cytology sampling)
58102	Office endometrial curettage
59000	Amniocentesis for diagnosis, abdominal approach
59010	Amnioscopy
59011	Amnioscopy (intraovular)
64774	Excision of neuroma; cutaneous nerve, surgically identifiable
64788	Excision of neurofibroma or neurolemmoma; cutaneous nerve
67350	Biopsy of extraocular muscle
69433	Tympanostomy (requiring insertion of ventilating tube), local or topical anesthesia; unilateral
69434	bilateral
Group III	
31615	Tracheobronchoscopy through established tracheostomy incision
31622	Bronchoscopy; diagnostic, (flexible or rigid) with or without cell washing or brushing
31625	with biopsy

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code Description
Group III (Cont'd)	
31626	with biopsy
31635	with removal of foreign body
31645	with therapeutic aspiration of tracheobronchial tree, initial
31646	with therapeutic aspiration of tracheobronchial tree, subsequent
43200	Esophagoscopy, rigid or flexible fiberoptic (specify); diagnostic procedure
43202	for biopsy and/or collection of specimen by brushing or washing
43215	for removal of foreign body
43217	Esophagoscopy, rigid or flexible fiberoptic for removal of polypoid lesion(s)
43219	for insertion of plastic tube or stent
43220	for dilation, direct, any method
43226	for insertion of wire to guide dilation
43227	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
43228	for ablation of tumor or mucosal lesion
43234	Upper gastrointestinal endoscopy, simple primary examination (e.g., with small diameter flexible fiberoscope)
43235	Upper gastrointestinal endoscopy including esophagus, stomach, and either the duodenum and/or jejunum as appropriate; complex diagnostic
43239	for biopsy and/or collection of specimen by brushing or washing

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Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group III (Cont'd)</u>	
43241	with transendoscopic tube or catheter placement
43245	for dilation of gastric outlet for obstruction
43246	for directed placement of percutaneous gastrostomy tube
43247	for removal of foreign body
43251	for removal of polypoid lesion(s)
43255	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
43258	for ablation of tumor or mucosal lesion (e.g., electrocoagulation, laser photocoagulation, hot biopsy/fulguration)
43260	Endoscopic retrograde cholangiopancreatography (ERCP), with or without biopsy and/or collection of specimen
43262	for sphincterotomy/papillotomy
43263	for pressure measurement of sphincter of Oddi
43264	for removal of stone(s) from biliary and/or pancreatic ducts
43267	for insertion of nasobiliary or nasopancreatic drainage tube (when done with sphincterotomy, also use 43262)
43268	for insertion of tube or stent into bile or pancreatic duct (when done with sphincterotomy, also use 43262)
43271	for balloon dilation of ampulla, biliary or pancreatic duct
43272	for ablation of tumor or mucosal lesion (e.g., laser, hot biopsy/fulguration)

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140. Table L

Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group III (Cont'd)</u>	
44360	Small intestinal endoscopy, enteroscopy beyond second portion of duodenum; diagnostic
44361	for biopsy and/or collection of specimen by brushing or washing
44363	for removal of foreign body
44364	for removal of polypoid lesion(s)
44366	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
44369	for ablation of tumor or mucosal lesion (e.g., laser)
44380	Fiberoptic ileoscopy through stoma:
44382	with biopsy and/or collection of specimen by brushing or washing
44385	Fiberoptic evaluation of small intestinal (Kock) or pelvic pouch:
44386	for biopsy and/or collection of specimen by brushing or washing
44388	Fiberoptic colonoscopy through colostomy:
44389	for biopsy and/or collection of specimen by brushing or washing
44390	for removal of foreign body
44391	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
44392	for removal of polypoid lesion(s)
44393	for ablation of tumor or mucosal lesion (e.g., laser)

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group III (Cont'd)</u>	
45320	Proctosigmoidoscopy for ablation of tumor (e.g., electrocoagulation, photocoagulation, hot biopsy/fulguration)
45336	Sigmoidoscopy, flexible fiberoptic diagnostic for ablation of tumor or mucosal lesion (e.g., laser)
45355	Colonoscopy, with standard sigmoidoscope, transabdominal via colotomy, single or multiple
45378	Colonoscopy, fiberoptic, beyond splenic flexure; diagnostic procedure
45379	for removal of foreign body
45380	for biopsy and/or collection of specimen by brushing or washing
45382	for control of hemorrhage (e.g., electrocoagulation, laser photocoagulation)
45383	for ablation of tumor or mucosal lesion (e.g., laser)
45385	for removal of polypoid lesion(s)
50551	Renal endoscopy through established nephrostomy or pyelostomy, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service
50553	with ureteral catheterization, with or without dilation of ureter
50555	with biopsy
50557	with fulguration, and/or incision with or without biopsy
50559	with insertion of radioactive substance with or without biopsy and/or fulguration
50561	with removal of foreign body or calculus

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140. Table L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

<u>Code</u>	<u>Code Description</u>
<u>Group III (Cont'd)</u>	
50951	Ureteral endoscopy through established ureterostomy, with or without irrigation, instillation or ureteropyelography, exclusive of radiologic service:
50953	with ureteral catheterization
50955	with biopsy
50957	with fulguration, with or without biopsy
50959	with insertion of radioactive substance with or without biopsy and/or fulguration (not including provision of material)
50961	with removal of foreign body or calculus
52000	Cystourethroscopy, (separate procedure)
52005	Cystourethroscopy with ureteral catheterization, with or without irrigation, instillation, or ureteropyelography, exclusive of radiologic service
52007	with brush biopsy of ureter and/or renal pelvis
52010	Cystourethroscopy with ejaculatory duct catheterization with or without irrigation, instillation, or duct radiography, exclusive of radiological service
52204	Cystourethroscopy, with biopsy
52214	Cystourethroscopy, with fulguration (including cryosurgery or laser surgery) of trigone, bladder neck, prostatic fossa, urethra, or periurethral glands
52224	Cystourethroscopy, with fulguration (including cryosurgery or laser surgery) or treatment of MINOR (less than 0.5 cm) lesion(s), with or without biopsy
52250	Cystourethroscopy with insertion of radioactive substance, with or without biopsy or fulguration

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140. Table L	140. Table L	140. Table L
Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Cont'd)

Code	Code	Code
Description	Description	Description

Group III (Cont'd)	Group III (Cont'd)	Group III (Cont'd)
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52265	52265	52265
Cystourethroscopy, with dilation of bladder for interstitial cystitis; local anesthesia	Cystourethroscopy, with dilation of bladder for interstitial cystitis; local anesthesia	Cystourethroscopy, with dilation of bladder for interstitial cystitis; local anesthesia

52281	52281	52281
Cystourethroscopy, with calibration and/or dilation of urethral stricture or stenosis, with or without meatotomy and injection procedure for cystography, male or female	Cystourethroscopy, with calibration and/or dilation of urethral stricture or stenosis, with or without meatotomy and injection procedure for cystography, male or female	Cystourethroscopy, with calibration and/or dilation of urethral stricture or stenosis, with or without meatotomy and injection procedure for cystography, male or female

52310	52310	52310
Cystourethroscopy, with removal of foreign body calculus or uterine stent from urethra or bladder (separate procedure); simple	Cystourethroscopy, with removal of foreign body calculus or uterine stent from urethra or bladder (separate procedure); simple	Cystourethroscopy, with removal of foreign body calculus or uterine stent from urethra or bladder (separate procedure); simple

52315	52315	52315
complicated	complicated	complicated

52317	52317	52317
Litholapaxy; crushing or fragmentation of calculus by any means in bladder and removal of fragments, simple; small (less than 2.5 cm)	Litholapaxy; crushing or fragmentation of calculus by any means in bladder and removal of fragments, simple; small (less than 2.5 cm)	Litholapaxy; crushing or fragmentation of calculus by any means in bladder and removal of fragments, simple; small (less than 2.5 cm)

52318	52318	52318
complicated or large (over 2.5 cm)	complicated or large (over 2.5 cm)	complicated or large (over 2.5 cm)

52320	52320	52320
Cystourethroscopy (including ureteral catheterization); with removal of ureteral calculus	Cystourethroscopy (including ureteral catheterization); with removal of ureteral calculus	Cystourethroscopy (including ureteral catheterization); with removal of ureteral calculus

52330	52330	52330
with manipulation, without removal of ureteral calculus	with manipulation, without removal of ureteral calculus	with manipulation, without removal of ureteral calculus

52335	52335	52335
Cystourethroscopy, with ureteroscopy and/or pyeloscopy includes dilation of the ureter by any method	Cystourethroscopy, with ureteroscopy and/or pyeloscopy includes dilation of the ureter by any method	Cystourethroscopy, with ureteroscopy and/or pyeloscopy includes dilation of the ureter by any method

52336	52336	52336
with removal or manipulation of calculus (ureteral catheterization is included)	with removal or manipulation of calculus (ureteral catheterization is included)	with removal or manipulation of calculus (ureteral catheterization is included)

52338	52338	52338
with biopsy and/or fulguration of lesion	with biopsy and/or fulguration of lesion	with biopsy and/or fulguration of lesion

55200	55200	55200
Vasotomy, cannulization with or without incision of vas, unilateral or bilateral (separate procedure)	Vasotomy, cannulization with or without incision of vas, unilateral or bilateral (separate procedure)	Vasotomy, cannulization with or without incision of vas, unilateral or bilateral (separate procedure)

55250	55250	55250
Vasectomy, unilateral or bilateral (separate procedure), including postoperative semen examination(s)	Vasectomy, unilateral or bilateral (separate procedure), including postoperative semen examination(s)	Vasectomy, unilateral or bilateral (separate procedure), including postoperative semen examination(s)

(Source: Added at 14 Ill. Reg. _____, effective _____)

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1) The Heading of the Part: REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES2) Code Citation: 89 Ill. Adm. Code 1473) Section Numbers: Proposed Action:

147.5 Amendment
 147.15 New Section
 147.25 Amendment
 147.50 Amendment
 147.75 Amendment

4) Statutory Authority: Sections 5-5 et seq. of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5 et seq.)5) A Complete Description of the Subjects and Issues

Involved: The major part of this revision is the addition of three (3) new areas and three (3) expanded areas to the Inspection of Care survey. The three new areas are Comprehensive Resident Assessment, Communications and Restraint Management and Reduction. The three expanded areas are Containment, Medications Monitoring and Social Services. These six areas are being revised to provide reimbursement to long term care facilities in order to assist facilities in meeting OBRA 87 requirements.

The additional revisions are for purposes of clarification as well as changing some required time frames to conform with the change to an annual Inspection of Care survey.

The changes implemented through this rulemaking are estimated to increase the Department's approximate expenditures for facilities by \$39.6 million in Fiscal Year 1992.

6) Will these Proposed Amendments replace Emergency Amendments currently in effect? No7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No8) Do these Proposed Amendments contain incorporations by reference? No9) Are there any other Proposed Amendments pending on this Part? Yes

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Section Numbers Proposed Action Illinois Register Citation147.250 New Section April 13, 1990
(14 Ill. Reg. 5434)147.250 New Section September 21, 1990
(14 Ill. Reg. 15243)140. Table A Amendment September 21, 1990
(14 Ill. Reg. 15243)10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Daniel Leikvold, Staff Attorney, Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762 (217) 782-1233. The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

Interested parties can review the rules pertaining to this change at the Department of Public Aid's local office located in each county, except in Cook County, where the rules can be reviewed at the Director's Office, 624 South Michigan Avenue, 13th Floor, Chicago, Illinois. The rule can be reviewed at all offices Monday through Friday, 8:30 a.m. until 5:00 p.m.

12) Initial Regulatory Flexibility Analysis:A) Date Proposed Amendments were submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 4, 1990B) Types of small businesses affected: Medical ProvidersC) Reporting, bookkeeping or other procedures required for compliance: No new procedures requiredD) Types of professional skills necessary for compliance: No new skills required

The full text of the Proposed Amendments begin on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 147

REIMBURSEMENT FOR NURSING COSTS FOR
GERIATRIC FACILITIES

Section 147.5	Reimbursement For Nursing Costs For Geriatric Residents In Group Care Facilities
147.15	Comprehensive Resident Assessment
147.25	Functional Needs and Restorative Care
147.50	Service Needs
147.75	Definitions
147.100	Reconsiderations
147.105	Midnight Census Report
147.125	Times and Staff Levels
147.150	Statewide Rates
147.175	Referrals
147.200	Basic Rehabilitation Aide Training Program
147.205	Nursing Rates
147.300	Determination of Program (Specialized Services) Costs
140.305	Specialized Service Requirements for Individuals With Mental Illness in Residential Facilities
147.310	Inspection of Care (IOC) Review Criteria for the Evaluation of Specialized Services in Residential Facilities for Individuals with Mental Illness
147.315	Comprehensive Functional Assessments and Reassessments
147.320	Interdisciplinary Team (IDT)
147.325	Comprehensive Care Plan (CCP)
147.330	Specialized Care - Administration of Psychopharmacologic Drugs
147.335	Specialized Care - Behavioral Emergencies
147.340	Discharge Planning
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Specialized Services for Individuals with Mental Illness
147.350	Reimbursement for Program Costs in Nursing Facilities Providing Active Treatment for Individuals with Developmental Disabilities
TABLE A	Staff Time and Allocation by Need Level
TABLE B	Staff Time and Allocation for Restorative Programs

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par.

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6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140. Table H and 140. Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 16669, effective September 27, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 147.5	Reimbursement For Nursing Costs For Geriatric Residents In Group Care Facilities
a)	Sections 147+25-147.15 through 147.175 describe the Department's method of reimbursement for nursing costs for geriatric residents in group care facilities. Reimbursement for nursing costs is based on the resident's need for care and the time and type of staff required to provide that care.
b)	Resident Assessment Guidelines
	The Resident Assessment Instrument is used to assess the variable needs of public assistance residents for determination of statewide rates and facility reimbursement levels. The Resident Assessment guidelines are described in Sections 147+25-147.15 through 147.75.
	(Source: Amended at 14 Ill. Reg. _____, effective _____)

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Section 147.15 Comprehensive Resident Assessment

Type Code: Intensity Codes

- a) Two or more full comprehensive assessments were necessary and completed in the past year (based upon admission date or completion date of the last full comprehensive assessment). The interdisciplinary team must examine each resident no less than once every 3 months and, as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.
- b) Nursing home residents admitted prior to October 1, 1990 are required to have a minimum data set comprehensive assessment completed before October 1, 1991.

(Source: Added at 14 Ill. Reg. _____, effective _____)

Section 147.25 Functional Needs and Restorative Care

A Resident Assessment Instrument is used to assess the variable needs of public assistance residents for determination of statewide nursing rates and facility reimbursement levels. The Resident Assessment guidelines as described in this Section identify the functional needs of the resident and the programs developed to improve their functional abilities.

- a) Category 1 - Bathing/Grooming

1) Functional Description

- A) Needs and receives hands-on assistance due to functional deficit(s) (as determined by physical or psychological causes). Resident is helped with bathing some part of her or his body. This includes oral hygiene, washing hair and shaving.
- B) Totally dependent. Resident requires and receives total assistance due to a functional deficit(s) (as determined by physical or psychological causes) from staff with bathing. Resident is bathed by a staff person whether the bath is given in the tub, shower, or bed.

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2) Restorative Care

Bathing and Grooming - Staff has developed and is implementing a specific program to assist resident to improve functional abilities in bathing and grooming due to a functional deficit(s) (as determined by physical or psychological causes).

3) Maintenance

Restorative care and program continues to be implemented, and is at a maintenance level after initial improvement. Restorative care and program intervention have been modified and continue to be implemented to maintain the resident's improved condition. When scoring this Level 2 Maintenance, the ADL component must be scored zero.

- 4) An assessment should be completed identifying the resident current level of functioning in bathing and grooming. The assessment should state what the resident is able to do independently and what assistance is required and what makes it necessary. A definite base must be established so that anyone reading the assessment and progress notes can tell whether the individual has progressed in ability, or has lost functional ability.

- 4)5) Prior to a resident being given credit for restorative care in any program, the following must be met:

- A) An assessment completed identifying the resident's current level of functioning and plan developed to increase this level of functioning by either a physical therapist, occupational therapist, or a registered nurse who has successfully completed an approved rehabilitation course.
- B) A reassessment is conducted as indicated in the initial plan. An assessment must be conducted at least every 90 days but can be

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conducted as frequently as needed based on outcome and response.

C) Program must be reflected in the resident's care plan.

D) Staff carries out the restorative care programs as indicated by the plan and records resident's response to the restorative care programs in the clinical record at least monthly.

E) The program is reviewed at the time of the care plan meeting by the interdisciplinary team; if resident fails to increase his functional ability, after initial improvement, credit will still be given as long as restorative care continues to be provided. (The care plan review is required by 42 CFR 456.380 (1987) (no subsequent dates or editions) for intermediate care facilities and 42 CFR 483.20 (1989) 456-380- (1987)- (no-subsequent-dates-or-editions)-for-skilled-nursing-facilities.

b) Category 2 - Clothing

1) Functional Description

A) Needs and receives hands-on assistance due to a functional deficit(s) (as determined by physical or psychological causes). Resident requires and receives help with getting dressed. This involves the actual assisting with putting on clothes.

B) Totally dependent. Resident requires and receives total assistance due to a functional deficit(s) (as determined by physical or psychological causes) from staff with dressing. Resident is dressed by a staff person and does not participate in dressing of self. This includes bedfast residents being dressed in gown, pajamas, etc.

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2) Restorative Care

Clothing - Staff has developed and is implementing a specific program to assist resident to improve functional abilities in dressing due to a functional deficit(s) (as determined by physical or psychological causes).

3) Maintenance

Restorative care and program continues to be implemented, and is at a maintenance level after initial improvement. Restorative care and intervention have been modified and continue to be implemented to maintain the resident's improved condition. When scoring this Level 2 Maintenance, the ADL component must be scored zero.

4) An assessment should be completed identifying the resident current level of functioning in dressing. The assessment should state what the resident is able to do independently and what assistance is required and what makes it necessary. A definite base must be established so that anyone reading the assessment and progress notes can tell whether the individual has progressed in ability, or has lost functional ability.

4)5) Prior to a resident being given credit for restorative care in any program, the following must be met:

A) An assessment completed identifying the resident's current level of functioning and plan developed to increase this level of functioning by either a physical therapist, occupational therapist, or a registered nurse who has successfully completed an approved rehabilitation course.

B) A reassessment is conducted as indicated in the initial plan. An assessment must be conducted at least every 90 days but can be

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- conducted as frequently as needed based on outcome and response.
- C) Program must be reflected in the resident's care plan.
- D) Staff carries out the restorative care programs as indicated by the plan and records resident's response to the restorative care programs in the clinical record at least monthly.
- E) The program is reviewed by at the time of the care plan meeting by the interdisciplinary team; if resident fails to increase his functional ability, after initial movement improvement, credit will still be given as long as restorative care continues to be provided. (The care plan review is required by 42 CFR 483.20 (1989) 456,389-{1987}-{ne-subsequent-dates-ex-editions}-for-intermediate-care-facilities-and-42-CFR-456,280-{1987}-{ne-subsequent-dates-ex-editions}-for-skilled-nursing-facilities.

c) Category 3 - Eating

1) Functional Description

- A) Resident needs and receives hands-on staff assistance due to functional deficit(s) (as determined by physical or psychological causes) to eat some part of the meal.
- B) Totally dependent. Resident requires and receives total assistance due to a functional deficit(s) (as determined by physical or psychological causes) from staff with eating.
- C) Tube Feeding. Resident requires and receives tube feeding. Resident is fed through naso/gastric tube or gastrostomy tube regardless of other oral food intake.

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2) Restorative Care

Eating - Staff has developed and is implementing a specific program to assist resident to improve functional abilities in eating due to a functional deficit(s) (as determined by physical or psychological causes).

3) Maintenance

Restorative care and program continues to be implemented, and is at a maintenance level after initial improvement. Restorative care and intervention have been modified and continue to be implemented to maintain the resident's improved condition. When scoring this Level 2 Maintenance, the ADL component must be scored as 0.

- 4) An assessment should be completed identifying the resident current level of functioning in eating. The assessment should state what the resident is able to do independently and what assistance is required and what makes it necessary. A definite base must be established so that anyone reading the assessment and progress notes can tell whether the individual has progressed in ability, or has lost functional ability.

- 4)5) Prior to a resident being given credit for restorative care in any program, the following must be met:

- A) An assessment completed identifying the resident's current level of functioning and plan developed to increase this level of functioning by either a physical therapist, occupational therapist, or a registered nurse who has successfully completed an approved rehabilitation course.
- B) A reassessment is conducted as indicated in the initial plan. An assessment must be conducted at least every 90 days but can be conducted as frequently as needed based on outcome and response.

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(Cont'd)

- C) Program must be reflected in the resident's care plan.
- D) Staff carries out the restorative care programs as indicated by the plan and records resident's response to the restorative care programs in the clinical record at least monthly.

E) The program is reviewed at the time of the care plan meeting by the interdisciplinary team; if resident fails to increase his/her functional ability, after initial improvement, credit will still be given as long as restorative care continues to be provided. The care plan review is required by 42 CFR 483.20 (1989)(456-280-(1987)-(no-subsequent-dates-or-editions))-for-intermediate-care-facilities-and-42-CFR-456-280-(1987)-(no-subsequent-dates-or-editions))-for-skilled-nursing-facilities.

d) Category 4 - Mobility

1)	Functional Description
1)	1)

- A) Needs and receives hands-on assistance due to a functional deficit(s) (as determined by physical or psychological causes) with standing, transfer or movement about the facility. Resident can ambulate or move about facility per self once transfer is completed. Or, resident can transfer independently, but staff must assist resident with movement about the facility.
- B) Resident requires and receives hands-on assistance due to a functional deficit(s) (as determined by physical or psychological causes) to transfer from bed to chair or wheelchair and requires and receives assistance with movement about the facility.

2) Restorative Care

Mobility - Staff has developed and is

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- implementing a specific program to assist resident to improve functional abilities in transferring, ambulation, wheelchair mobility, and/or bed mobility due to a functional deficit(s) (as determined by physical or psychological causes).

3) Maintenance

Restorative care and program continues to be implemented, and is at a maintenance level after initial improvement. Restorative care and intervention have been modified and continue to be implemented to maintain the resident's improved condition. When scoring this Level 2 Maintenance, the ADL component must be scored zero.

4)

An assessment should be completed identifying the resident's current level of functioning in bed mobility, transfer and locomotion. The assessment should state what the resident is able to do independently and what assistance is required and what makes it necessary. A definite base must be established so that anyone reading the assessment and progress notes can tell whether the individual has progressed in ability, or has lost functional ability.

 $4+5)$

Prior to a resident being given credit for restorative care in any program, the following must be met:

- A) An assessment completed identifying the resident's current level of functioning and plan developed to increase this level of functioning by either a physical therapist, occupational therapist, or a registered nurse who has successfully completed an approved rehabilitation course.
- B) A reassessment is conducted as indicated in the initial plan. An assessment must be conducted at least every 90 days but can be conducted as frequently as needed based on outcome and response.

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- C) Program must be reflected in the resident's care plan.
- D) Staff carries out the restorative care programs as indicated by the plan and records resident's response to the restorative care programs in the clinical record at least monthly.

E) The program is reviewed at the time of the care plan meeting by the interdisciplinary team; if resident fails to increase his functional ability, after initial improvement, credit will still be given as long as restorative care continues to be provided. (The care plan review is required by 42 CFR 483.20 (1989)) 456-380-41987)-(no-subsequent-dates-or-editions)-for-intermediate-care-facilities-and-42-CFR-456-280-41987)-(no-subsequent-dates-or-editions)-for-skilled-nursing-facilities.

e) Category 5 - Continence

1) Functional Description

- A) Resident is incontinent of bladder and/or bowel (includes dribbling).
- B) Resident is incontinent-and-assisted to toilet as frequently as indicated by resident need.

2) Restorative Care

Staff has assessed, planned, implemented and monitored, according to individual need, a specific formalized program to assist resident to improve abilities in continence.

3) Maintenance

Restorative care and formalized program continues to be implemented and is at a maintenance level after initial improvement. Restorative care and intervention have been

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modified and continue to be implemented to maintain the resident's improved condition. When scoring this Level 2 Maintenance, the ADL component must be scored zero.

- 4) An assessment should be completed identifying the resident current level of functioning in continence. The assessment should state what the resident is able to do independently and what assistance is required and what makes it necessary. A definite base must be established so that anyone reading the assessment and progress notes can tell whether the individual has progressed in ability, or has lost functional ability.

- 5) Prior to a resident being given credit for restorative care in any program, the following must be met:

- A) An assessment completed by a registered nurse, identifying the resident's current level of functioning, the cause or contributing factors of current incontinence, and a plan developed to increase this level of functioning by the interdisciplinary team.
- B) A reassessment is conducted as indicated in the initial plan. An assessment must be conducted at least every 90 days but can be conducted as frequently as needed based on outcome and response.
- D) Staff carries out the restorative care programs as indicated by the plan and records resident's response to the restorative care programs in the clinical record at least monthly.
- E) The program is reviewed at the time of the care plan meeting by the interdisciplinary team; if resident fails to increase his/her functional ability, after initial improvement, credit will still be given as long as restorative care continues to be

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(Cont'd)

provided. The care plan review is required by 42 CFR 483.20 (1989).

f) Category 6 - Psycho/Social/Mental Status

1) Functional Description

Staff has developed and is implementing a specific intervention program that addresses psychosocial needs. This program is monitored by a Qualified Health Professional "QHP" as evidenced by signing off on care plan and/or response notes, with written recommendations as appropriate in the clinical record. This program must be in the care plan and the resident's response to staff's intervention must be recorded in the clinical record at least monthly. Interventions may occur in 1:1 scheduled counseling sessions, group sessions no larger than eight, or strictly incident intervention. Incident intervention only programs are limited to residents with severe behavior problems which preclude participation in a more structured setting. Incident intervention only must consist of a plan with staff using ongoing specifically identified interventions for identified behavior occurrences. The plan may consist of any combination of the above-mentioned techniques. Interventions must take place at least three times a week.

2) Prior to a resident program being given credit for psychosocial/mental status, the following must be met:

- A) An assessment should be completed identifying the resident's current psychosocial status need and a specific plan developed. The assessment should state what the resident is able to do independently and what assistance is required and what makes it necessary. A definite base must be established so that anyone reading the assessment and progress notes can tell whether the individual has progressed or regressed. For episodic intervention, an

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(Cont'd)

assessment must include duration, intensity and frequency of behavior. The assessment for episodic behavior must also include precipitating factors and consequences.

- B) A reassessment is conducted as indicated in the initial plan. A reassessment must be conducted at least every 90 days but can be conducted as frequently as needed based on outcome and response.

- C) A program must be reflected in the resident's care plan.

- D) Staff carries out the program as indicated by the plan and records such in the clinical record at least monthly.

- E) The program is reviewed at the time of the care plan meeting by the interdisciplinary team as defined by the Department of Public Health at 77 Ill. Adm. Code 300-330. (The care plan review is required by 42 CFR 483.20 (1989)) ~~456-380-(1987)-(no-subsequent-dates-or-editions)-for-intermediate-care-facilities-and-42-CFR-456-280-(1987)-(no-subsequent-dates-or-editions)-for-skilled-nursing-facilities.~~ The interdisciplinary team is defined by the Department of Public Health at 77 Ill. Adm. Code 300.330.)

g) Category 7 - Communication

1) Functional Description

Resident has been assessed, needs and receives special assistance or care as a result of altered sensory reception or transmission including visual, auditory, or speech.

2) Type Code: Intensity Codes

- A) Interventions are developed and implemented to address one communication deficit.

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Functional Needs and Restorative Care
(Cont'd)

- B) Interventions are developed and implemented to address two communication deficits.
- C) Interventions are developed and implemented to address three communication deficits.
- 3) Approved appliances and assistive devices, including application and care of the appliance, are covered in the appliance category.
- 4) Interventions must have a comprehensive 7-day a week philosophy.
- 5) Interventions must be monitored by interdisciplinary team with in-service training as required for staff.
- 6) Interventions must be conducted on an individual resident basis.

(Source: Amended at 14 Ill. Reg. ____, effective ____)

Section 147.50 Service Needs

This Section describes the Department's method of reimbursement for nursing costs for service needs through the use of the Resident Assessment Instrument. It further describes therapy services that may be needed by residents that are reimbursable through a separate post-payment audit system.

'a) Category 1 - Appliances

1) Type Code: Frequency codes

One or more appliances.

2) Appliances

Appliances, restricted to the following devices, that the facility staff assist the resident with applying, and/or maintenance/care of the appliance as indicated per physician's or dentist's orders and/or resident plan of care.

- A) Hearing device (one or two)

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Service Needs (Cont'd)

- B) Elastic joint supports
- C) Ted or jobst hose (one or two)
- D) A neck brace
- E) A back brace
- F) Artificial limbs
- G) Trusses (male and female)
- H) Prescribed ACE bandages
- I) Cervical collars
- J) Leg braces
- K) Arm braces
- L) Head braces
- M) Splints
- N) Slings
- O) Contact lens
- P) Artificial eye
- Q) Protective helmet
- R) Cylinder braces
- S) Eyeglasses
- T) Dentures
- U) Electrolarynx
- V) Augmentative communication system
- W) TENS Unit
- X) Wheelchair cuffs
- Y) ADL adaptive equipment

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Section 147.50 Service Needs (Cont'd)

2) Abductor bar/pillow

AA) Self-release safety devices

b) Category 2 - Catheterization

Type code: Intensity codes

Indwelling, Texas, supra pubic catheter, intermittent catheterization, including care and irrigation

c) Category 3 - Decubitus-Pressure Ulcer Treatment

Type code: Intensity codes

1) Resident has been admitted with a stage I or II decubitus-pressure ulcer.

2) Resident has been admitted with a stage III or IV decubitus-pressure ulcer.

3) Resident has a Stage I or II pressure ulcer that developed while in the facility.

4) Resident has a Stage III or IV decubitus-pressure ulcer that developed while in the facility.

d) Category 4 - Decubitus-Pressure Ulcer Prevention

Type code: Intensity codes

1) Resident has been assessed, using a comprehensive assessment instrument, to determine risk for developing decubitus-pressure ulcers and has scored in the moderate risk category. A comprehensive preventative program as specified in the care plan is implemented and must address, but is not limited to, positioning schedules, range of motion program, nutritional support, and skin measures (i.e., whirlpool, etc.) as determined by facility policy.

2) Resident has been assessed, using a comprehensive assessment instrument, to determine risk for developing decubitus-pressure ulcers and has scored in the high risk category. A comprehensive preventative program as specified

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Section 147.50 Service Needs (Cont'd)

in the resident care plan is implemented and must address, but is not limited to, special mattresses or wheelchair cushions to reduce pressure, a positioning schedule, range of motion program, nutritional support and daily skin checks, and skin care measures (i.e., whirlpool, etc.) as dictated by facility policy for high risk residents.

e) Category 5 - Wound Care

Type code: Intensity codes

1) Dressings and/or skin treatments for noninfected areas.

2) Complex dressings (such as sterile dressings or post-op) and/or treatment to lesions that are infected.

f) Category 6 - Injections

Type code: Frequency codes

1) Requires and receives injections less than daily but at least once a month, on a regular basis as per physician order.

2) Requires and receives one or more injections daily.

g) Category 7 - Intravenous Therapy: I.V.'s and Clysis

Type code: Frequency codes

1) Required and received I.V. or clysis for at least 48 hours (intermittent or continuous) during the past ~~three~~-six months.

2) Required and received I.V. or clysis seven or more days in past ~~three~~-six months.

h) Category 8 - Laboratory-Specimen Service

Type code: Frequency codes

Resident required and facility staff collected one or

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Section 147.50 Service Needs (Cont'd)

more of the following: a specimen including blood specimen, urine specimen either by midstream "cleancatch" or by catheter, sputum specimen, stool specimen, swabs of throat, lesions, diabetic urine test, telephonic pacemaker check or electrocardiogram or oximeter or glucometer readings or checking and monitoring of dialysis shunts. Specimens collected by an outside lab are not included.

- 1) One time in the last ~~three~~ six months.
- 2) Once a week.
- 3) Daily.

i) Category 9 - Medications/Medication Monitoring

Type code: Intensity codes

- 1) Resident needs and receives medication four times a day or more during off-hours or by multiple routes, and requires routine monitoring to check for untoward reaction or side effects. Also included is a resident who needs and receives medication that requires special monitoring by licensed personnel with need for assessing and reporting to physician if necessary, changes in resident status, lab work, side effects, or apparent drug interactions. This can result in an adjustment of dosage or medication, or in continuing assessment of an unstable condition.

2) Medication Programs

- A) Resident is on a supervised program to increase or maintain an acquired level of independent self-administration of medication. The resident's cognitive, physical and visual ability to carry out this responsibility has been assessed by the interdisciplinary team. Nursing staff is responsible for drug storage and for recording self-administration in the resident's medication administration record: or

- B) Resident is involved in a program to

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Section 147.50 Service Needs (Cont'd)

discontinue or reduce psychotropic medication to the lowest possible dose necessary to control symptoms.

j) Category 10 - Occupational Rehabilitation Services

- 1) Type code: Intensity Code

The occupational rehabilitation program shall be ordered by a physician. It shall be planned and designed specifically for the resident by a registered or licensed occupational therapist (OTR/L) (68 Ill. Adm. Code 1315). The program occupational rehabilitation services shall be administered by a rehabilitation aide or Certified Occupational Therapist Assistant ("COTA") under the supervision of the OTR/L. There shall be a monthly review of progress documented by the OTR/L, or if written by the COTA, co-signed by the OTR/L.

- 2) There must be a reasonable likelihood that the rehabilitation services will improve the resident's functional ability. While there is no specific time limit on the duration of these services, benefit to the resident's functional ability must be evident in the therapist's documentation. This service must be reviewed at the time of the care plan meeting review by the interdisciplinary team.

- 3) Prior to a resident being given credit in occupational rehabilitative services, the following conditions must be met:

- A) A corresponding ADL restorative program must be developed to increase the resident's functional ability and it must be carried out by the nursing department. The resident's response to the intervention must be recorded in the clinical record.
- B) The occupational rehabilitation aide must be a certified nurse's aide, or have a related degree, or two years of college in a related field, or an approved 36 hour activity course and has received specified training

as outlined and approved by the Department of Public Aid.

C) For residents with a mentally ill diagnosis, if occupational rehabilitation is scored, a psychosocial and/or a corresponding ADL program must have been developed and scored.

- k) Category 11 - Physical Rehabilitation Services
 - 1) Type code: Intensity Code

The physical rehabilitation program shall be ordered by a physician. It shall be designed and planned specifically for the resident by the Registered Physical Therapist (RPT). The physical rehabilitation services shall be administered by a Physical Therapy Assistant (PTA) or a rehabilitation aide under the supervision of the RPT. There shall be a monthly review of the progress documented by the RPT or if written by the PTA, co-signed by the RPT.
- 2) There must be a reasonable likelihood that the rehabilitation services will improve the resident's functional ability. While there is no specific time limit on the duration of these services, benefit to the resident's functional ability must be evident in the therapist's documentation. This service must be reviewed at the time of the care plan meeting review by the interdisciplinary team.
- 3) Prior to a resident being given credit in physical rehabilitation services, the following must be met:
 - A) A corresponding ADL restorative program must be developed to increase the resident's functional ability and it must be carried out by the nursing department. The resident's response to the intervention must be recorded in the clinical record.
 - B) The physical rehabilitation aide must be a certified nurse aide, or have completed at least one year of nurses training and have

received specified training as outlined and approved by the Illinois Department of Public Aid.

C) For residents with a mentally ill diagnosis, if physical rehabilitation is scored, a psychosocial and/or a corresponding ADL program must have been developed and scored.

- 1) Category 12 - Passive Range of Motion (PROM)
 - Type code: Frequency Code

Resident requires and receives PROM exercises to at least one extremity at least two times per day.
- m) Category 13 - Ostomy Care
 - Type code: Intensity codes

Includes gastrostomy, ileostomy, jejunostomy and colostomy.
- 1) Uncomplicated care of ostomy (gastrostomy included). Includes routine care and maintenance of the ostomy, i.e., cleansing and appliance change.
- 2) Complex ostomy, Includes post/op operative, ostomies, care of Percutaneous Endoscopic Gastrostomy (PEG) tubes, or an ostomy that, given the patient's overall condition, requires licensed care. All ostomies that have become excoriated or require a prescription medication application are included.
- n) Category 14 - Respiratory Therapy
 - 1) Type code: Intensity codes
 - A) Uncomplicated provision of these therapies. Resident is capable of administering his/her own respiratory therapy (oxygen and humidity) with minimum assistance from licensed personnel and routine monitoring by staff.

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Section 147.50 Service Needs (Cont'd)

B) Complex due to the nature of the resident's condition, type procedure or multiplicity of procedures required. Positive pressure breathing therapy, aerosol therapy, etc. and complicated problems with oxygen-humidity is required by resident. Resident is totally dependent upon administration by licensed staff.

2) Respiratory therapy includes oxygen, positive pressure breathing therapy, humidity therapy, or aerosol therapy. Room humidifiers are not included.

o) Category 15 - Suctioning

1) Type code: Frequency codes

A) At least twice weekly.

B) Once or more daily.

2) Includes postural drainage, percussion, and vibration.

p) Category 16 - Tracheostomy Care

1) Type code: Intensity codes.

A) Requires routine cleansing of tracheostomy site and non-sterile dressing change. Tracheostomy care managed by staff.

B) Requires and receives complex care to tracheostomy site more than one time daily which includes the changing of sterile or complex dressings, suctioning or changing of the tracheostomy tube, and/or monitoring of unstable respiratory status.

2) Includes care of tracheostomy site.

q) Category 17 - Discharge Planning

Type code: Intensity codes

A specific discharge plan has been developed by an

interdisciplinary team and reflected in the resident care plan. Includes only residents with discharge anticipated within the next three (3) months to a less restrictive environment. This plan shall include family and other state agency programs where appropriate (e.g. Department on Aging and Department of Rehabilitation Services). Discharge of the resident need not be accomplished provided the plan has been implemented and the services were within the past ~~four~~-six months.

r) Category 18 --~~Exercise~~, Health and Fitness Programs

Type code: Intensity Codes.

A health and fitness program has been specifically planned for the resident by a licensed nurse. The fitness program is written on the resident's fitness card. Following the resident's attendance, participation in the specific routines must be recorded on the resident's fitness card. The program is carried out at least three times per week. The resident's response to the program must be documented in the clinical record one time per month. Fitness routines may vary based on the resident's physical condition, fitness preferences and plan of care. Programs may be self-monitored. Programs may consist of, but are not limited to walking/fitness trails, flexibility exercises, endurance maintenance, wheel chair pushups, swimming, biking, basketball, baseball, and/or volleyball.

s) Category 19 - Restraint Management and Reduction

Type Code: Intensity Codes

The resident has been assessed by licensed staff and, for clearly documented reasons which are not life threatening, has been determined to be in need of a physical restraint, the resident, family (if appropriate), guardian or legal representative has consented to the use of the physical restraint. The staff has attempted less restrictive measures and documented the results. Consultation has taken place with appropriate health professionals, such as physician, occupational therapist, physical therapist or rehab certified registered nurse, in the use of

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Section 147.50 Service Needs (Cont'd)

less restrictive measures have been successfully maintained without the use of physical restraints. Where less restrictive measures have not been successful and physical restraints have been applied, the care plan documents the duration, type and circumstances under which the restraint can be used. The restraints are properly applied and the resident is released from the restraint, exercised or ambulated, and repositioned for 10 minutes at least every quarter, the interdisciplinary team reviewed the continuing need for restraints and that reduction in duration or less restrictive measures have been discussed. As the interdisciplinary team determines, an individualized restraint reduction program is developed and implemented.

t) Category - Social Services

1) Type Code: Intensity Codes

Resident and/or family and/or guardian counseled on residents rights at admission and reviewed individually with residents and/or family and/or guardian at least annually. Staff orients resident and/or family and/or guardian to facility programs, Medicare/Medicaid programs (including prevention of spousal impoverishment), available medical services, community support services, and the resident's personal allowances, and gives assistance to resident in applying for any needed services. Facility ascertains and arranges to secure or provide resident's choice of pastoral care. Resident and/or family and/or guardian are encouraged to participate in care plan conferences. Facility acquaints resident with resident council purpose/functions and encourages participation.

2) To qualify for Level 2, all Level 1 requirements must be in place as well as the following: Resident has participated in a monthly standard social service interview soliciting resident opinions and preferences about defined aspects of the quality of life in the facility. If resident is unable to participate in this interview, a family or guardian interview, in person or by phone, may be done on a monthly basis.

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NOTICE OF PROPOSED AMENDMENTS

Section 147.50 Service Needs (Cont'd)

s)u) Category - Therapy Services

1) Speech-Language Pathology and Audiology (SLP/A) Rehabilitative Services

A) General Criteria

There must be a reasonable likelihood that the treatment will improve the resident's functional means of communication. While there is no specific time limit on the duration of these services, improvement of the resident's condition must be evident in the therapist's documentation.

B) Specific Criteria

Resident requires and facility provides a Speech-Language Pathology and Audiology (SLP/A) Rehabilitative Program as ordered by a physician, planned and designed specifically for the resident by a certified speech-language pathologist/audiologist or Clinical Fellow (CFY) and including measurable goals. This program is carried out on a regularly scheduled basis by a certified speech-language pathologist/audiologist or Clinical Fellow (CFY). Progress notes are to be recorded as to the improvement of the resident's condition. This service must be reevaluated monthly by the certified speech-language pathologist/audiologist.

2) Physical Therapy and Related Rehabilitative Services

A) General Criteria

There must be a reasonable likelihood that the physical therapy and/or the physical rehabilitation services will improve the resident's functional ability. While there is no specific time limit on the duration of these services, benefit to the resident's functional ability must be evident in the therapist's documentation. This service

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Section 147.50

Service Needs (Cont'd)

must be reviewed at the time of the care plan review by the interdisciplinary team. The care plan review is required by 42 CFR 483.20 (1989) 456-280-(1984)-for-intermediate-care-facilities-and-42-CFR-456-280-(1984)-for-skilled-nursing-facilities. The interdisciplinary team is defined in 77 Illinois Administrative Code, Section 300.330.

B) Specific Criteria

i) Physical Therapy I

Physical therapy shall be planned and designed specifically for the resident by a physical therapist (PT). This plan must include measurable goals. The program shall be carried out on a regularly scheduled basis by an individual with qualifications of a physical therapist. There must be a review of progress toward goals documented by the PT monthly.

ii) Physical Therapy II

The physical therapy program shall be ordered by a physician. It shall be designed and planned specifically for the resident by the PT. The direct physical therapy services shall be administered by a physical therapist assistant (PTA) under the supervision of the PT. There shall be a review of the progress documented either by the PT or the PTA monthly. The PT must cosign the PTA's documentation monthly.

iii) Physical Therapy Assessment

Resident has been evaluated, assessed or reassessed by a physical therapist and a specific restorative program developed to increase resident's functional level. This program is then implemented by the nursing department.

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Section 147.50

Service Needs (Cont'd)

This is not scored if resident is also in any rehabilitation program.

3) Occupational Therapy and Related Rehabilitative Services

A) General Criteria

There must be a reasonable likelihood that the occupational therapy and and/or the occupational rehabilitation services will improve the resident's functional ability. While there is no specific time limit on the duration of these services, benefit to the resident's functional ability must be evident in the therapist's documentation. This service must be reviewed at the time of the care plan review by the interdisciplinary team. (The care plan review is required by 42 CFR 483.20 (1989) 456-280-(1987)-for-subsequent-dates-of-editions-for-intermediate-care-facilities-and-42-CFR-456-280-(1987)-for-subsequent-dates-of-editions-for-skilled-nursing-facilities. The interdisciplinary team is defined in 77 Illinois Administrative Code, Section 300.330.

B) Specific Criteria

i) Occupational Therapy I

The occupational therapy shall be ordered by a physician. It shall be planned and designed specifically for the resident by a registered occupational therapist/licensed (OTR/L). This plan must include measurable goals. The program shall be carried out on a regularly scheduled basis by an individual with qualifications of a registered occupational therapist/licensed (OTR/L). There must be a review of progress towards goals documented by the OTR/L every month.

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Section 147.50 Service Needs (Cont'd)

ii) Occupational Therapy II

The occupational therapy program shall be ordered by a physician. It shall be designed and planned specifically for the resident by the OTR/L. The direct occupational therapy services shall be administered by a certified occupational therapy assistant/licensed (COTA/L) under the supervision of the OTR/L. There shall be a review of the progress documented either by the OTR/L or COTA/L monthly. The OTR/L must cosign the COTA/L's documentation after monthly.

iii) Occupational Therapy Assessment

Resident has been evaluated, assessed or reassessed by a registered occupational therapist/licensed (OTR/L) and a specific restorative program developed to increase resident's functional level. This program is then implemented by the nursing department. This is not scored if resident is also in any rehabilitation program.

(Source: Amended at 14 Ill. Reg. ____, effective ____)

Section 147.75

Definitions

"ADL." Activities of daily living.

"ADL Adaptive Equipment." ADL adaptive equipment refers to any device applied to the hand or arm that allows for independence in eating, grooming, writing, bathing, dressing.

"Ambulate." Process of moving from one place to another either on foot (with or without a device) or in a wheelchair.

"Approved rehabilitation nurse." Is a registered professional nurse who shall have successfully completed a course approved by the Department of

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Section 147.75 Definitions (Cont'd)

Public Health or documents at least 60 hours of classroom/laboratory training in restorative/rehabilitative nursing as evidenced by a transcript, certificate, diploma or other written documentation from an accredited school or recognized accrediting agency such as a state or national organization of nurses or a state licensing authority.

"Assessment." The process of obtaining and interpreting data by licensed personnel. These data is gathered through record review, specific, direct observation, interview, and the administration of data collection procedures.

Agency Note: The requirement of an assessment/reassessment is indicated for several of the functional and/or service categories. Reference to an assessment does not mean the facility must develop a distinct assessment form for each category. Facilities should be encouraged to conduct a comprehensive assessment with emphasis given to the areas upon which resident programs or care plans will be based. A reassessment does not require the completion of a new assessment duplicating the comprehensive assessment already conducted. A reassessment requires a focused review of the resident's current status, progress, and the continual appropriateness of the program and/or care plan. The professional conducting the reassessment should document findings by updating the initial assessment.

"Assistance." Assistance refers to hands-on services by a staff member to help a resident do something such as to clothe, eat, etc.

"Certified Occupational Therapist Assistant." Has completed an occupational therapy program of at least two years in length leading to an associate degree or its equivalent approved by the Department of Registration and Education (DRE) and that person has successfully completed the examination authorized by DRE (see Ill. Rev. Stat. 1985 1989, ch. 111, pars. 3701 et seq.).

"Certified Therapeutic Recreation Specialist." A certified therapeutic recreation specialist is one who is presently certified by the National Council on

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Section 147.75 Definitions (Cont'd)

Therapeutic Recreation Certification. These standards are as follows:

Baccalaureate degree or higher from an accredited college or university with a major in therapeutic recreation, or a major in recreation with an option in therapeutic recreation (degree must be verified by an official transcript); or

Baccalaureate degree or higher from an accredited college or university verified by an official transcript and the following: completion of a minimum of nine semester units or 12 quarter units of upper division or graduate level coursework in therapeutic recreation content course (there must be at least three content courses in therapeutic recreation with a minimum of three units credit per course); and completion of a minimum of nine semester units or 12 quarter units of upper division or graduate level coursework in general recreation content course (there must be at least three content courses in general recreation with a minimum of three units credit per course); and minimum of 24 semester units or 36 quarter units of content coursework covering three of these six areas: adaptive physical education, human services, psychology, sociology, special education or related biological/physical sciences; ~~in one of the specified-related degree areas (art education, dance, drama, early childhood education, music education, physical education, psychology, rehabilitation, sociology, special education) and five years of full-time paid experience in a clinical, residential, or community-based therapeutic recreation program; and eighteen semester hours of twenty-seven quarter hours of upper-level (junior and senior level) or graduate credits in therapeutic recreation courses (at least six must be verified by an official transcript).~~

"Clinical Fellow" (CFY). The educational equivalent to a certified Speech-Language Pathologist/Audiologist. This entry level professional is engaged in completion of the Clinical Fellowship Year/CFY

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Section 147.75 Definitions (Cont'd)

required for certification as a Speech-Language Pathologist/Audiologist.

"Dependent (totally)." Resident requires the activity of the given area of need to be administered and/or performed by the facility staff and the resident cannot perform the activity himself/herself.

"Fitness Card." A card which includes individual resident data along with planned activities, necessary monitoring and documentation requirements.

"Fluidotherapy." A multifunctional modality that simultaneously applies heat, massage, sensory stimulation and pressure oscillation through the use of pulverized corn husks. It is used to decrease pain and edema, increase range of motion and circulation, and heal open or closed wounds. Unlike water, the dry natural media does not irritate the skin or produce thermal shock.

"Intervention." Planned interactions requiring either hands-on or verbal action by staff member. Actions are purposeful with the intent of altering or maintaining a resident's condition. Interventions are documented in resident's individualized plan of care.

"Less Restrictive Environment." Discharge to a less restrictive environment entails transfer of a resident from a skilled or intermediate care facility to a facility providing sheltered care or room and board; or discharge of a resident to home or independent living arrangement.

"Monitor." Direct observation by staff of a resident for a specific purpose.

"Normal operations of facility." Daily patterns of staff carrying out their prescribed duties or residents engaging in routine patterns of daily living.

"Occasional." Action that does not occur in a pattern. For example, a resident is occasionally incontinent when he/she, due to medication, certain foods, excitement, etc., may have an accident. However, it is not a consistent pattern.

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Section 147.75 Definitions (Cont'd)

"Occupational Therapist Registered/Licensed." Is a graduate of an occupational therapy program of at least four years in length leading to baccalaureate degree or its equivalent approved by DRE and that person has successfully completed examination authorized by DRE (see Ill. Rev. Stat. 1985, ch. 111, pars. 3701 et seq.).

"Off-hours." Refers to medication prescribed by the physician to be given at times other than the facilities routine times for dispensing medications. Off-hour medications should be given for specific purposes (i.e. eye drops, antibiotics, etc.) and should be of a limited duration.

"Paraffin Heat Therapy." A paraffin bath is wax which has been completely melted to 126°(F) - 130°(F). This treatment is used to apply heat uniformly to hand, foot, or other body areas to relieve pain, soreness and to relax muscle spasms. The heat relaxes the muscles and ~~stimulation-of-blood-circulation-~~ stimulates circulation of blood.

"Physical Restraints." Any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body. Arm and leg restraints, hand mitts, soft ties or vests, wheelchair safety bars and gerichairs are considered physical restraints.

"Physical Therapist." Is a person who has graduated from a curriculum in physical therapy approved by the Department of Registration and Education (DRE) and has passed an examination approved by the DRE to determine his fitness for practice as a physical therapist.

"Physical Therapist Assistant." Is a person who has graduated from a two year college level program approved by the American Physical Therapy Association; or has two years of appropriate experience as a physical therapist assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service.

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NOTICE OF PROPOSED AMENDMENTS

Section 147.75 Definitions (Cont'd)

"Psychotropic Drugs." Any drugs which are used for anti-psychotic, anti-depressant, anti-manic, sedative-hypnotic, and/or anti-anxiety purposes and which are intended to control mood, mental status or behavior of the resident.

"Qualified Health Professional (QHP)." An educator with a degree in education from an accredited program. A registered physical or occupational therapist. A physician licensed by the State of Illinois to practice medicine or osteopathy. A psychologist with a valid, current Illinois registration. A registered nurse with a valid, current Illinois registration. A registered speech pathologist or audiologist. A registered social worker with a Bachelor's Degree in social work from an accredited program, or a Bachelor's Degree in a field other than social work and at least three years social work experience under the supervision of a qualified social worker. A therapeutic recreation specialist who is a graduate of an accredited program and eligible for registration in the National Therapeutic Recreation society. A rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

"Qualified Mental Health Professional." A qualified health professional (as defined below above) who has specialized training or one year of experience in working with the mentally ill.

"Rehabilitation services." Rehabilitation services are those related professional therapy services provided by or under the supervision of licensed, certified, or registered personnel, specifically designed for a particular resident to improve the resident's functional abilities. These programs must be individually developed, have the potential to benefit the resident, and be ordered by the resident's physician. At a minimum these services must be provided by a duly qualified, certified nurse aide trained in a rehabilitation program approved by the Department of Public Aid. While there is no specific time limitation for their duration, improvement of the resident's condition should be evident in the resident's record.

NOTICE OF PROPOSED AMENDMENTS

Section 147.75 Definitions (Cont'd)

"Restorative services." Restorative services are those medical and nursing treatments provided either by or under the supervision of licensed personnel specifically required to maintain or improve a resident's functional condition or prevent further deterioration. These procedures should be reviewed by the facility's interdisciplinary team at the time of the care plan review and incorporated into the care plan. Services can include passive range of motion, palliative skin care, positioning, bowel and bladder retraining, ambulation, ADL retraining.

"Skilled services." Resident requires on a daily basis the direct observation, assistance, monitoring, or performance of nursing procedures by a ~~licensed-~~ registered nurse or the direct supervision by a ~~licensed-~~ registered nurse.

"Supervise." The process of overseeing or directing either staff in the care of the resident or the resident him/herself in performing certain functional or medical tasks. In the case of residents, staff must be present either to instruct, prompt, or to make sure the resident carries out a specific task in such a manner as to complete the task or avoid injury. In the case of staff, it is either direct supervision or the giving of detailed verbal or written instructions on how to carry out a specific procedure for or on a resident.

"Transfer." The process of physically moving a resident from one place to another.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

NOTICE OF PROPOSED AMENDMENTS

1. Heading of the Part: Regulations for Meetings

2. Code Citation: 11 Ill. Adm. Code 1424

3. Section Numbers
1424.355
Proposed Action
Amendment

4. Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b).

5. A complete description of the subjects and issues involved: This rule establishes a provision to allow horsemen time and facilities to train their horses prior to the first thoroughbred race meet of the year.

6. Will these proposed amendments replace emergency amendments currently in effect? No.

7. Does this rulemaking contain an automatic repeal date? No.

8. Do these proposed amendments contain incorporation by reference? No.

9. Are there any other proposed amendments pending in this Part?

1424.140 - 14 Ill. Reg. 10691 - July 6, 1990
1424.150 - 14 Ill. Reg. 10691 - July 6, 1990
1424.175 - 14 Ill. Reg. 10691 - July 6, 1990
1424.230 - 14 Ill. Reg. 8971 - August 3, 1990
1424.240 - 14 Ill. Reg. 10691 - July 6, 1990

10. Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

11. Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

12. Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: 11-28-90
- B) Types of small business affected: None
- C) Reporting, bookkeeping or other procedures required for compliance: N/A
- D) Types of professional skills necessary for compliance: N/A

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1424

REGULATIONS FOR MEETINGS

Section	Illinois Racing Board Right of Entry
1424.10	Office for Racing Board
1424.20	Moving Offices (Repealed)
1424.25	Inspections and Searches
1424.40	Investigative Authority
1424.45	Allocation of Stalls
1424.50	ACID (Coggins) Test
1424.55	Distance Poles
1424.60	Arrivals, Departures and Stabling
1424.70	Departure Slips
1424.80	Horse Ambulance
1424.90	Races Per Day
1424.100	Extra Races
1424.110	Clockers
1424.120	Outriders
1424.125	Camera
1424.160	Manned Ambulance
1424.175	Medical Services
1424.170	Policing of Premises
1424.180	Stable Area Security
1424.190	Stable Area Security
1424.200	Security Reports
1424.210	Night Patrol
1424.220	Telephones
1424.230	Calls Through Switchboard (Repealed)
1424.240	Races for Illinois Horses
1424.250	Breeder Awards
1424.260	Admission to Parts of Premises
1424.270	Stable Areas Fenced
1424.280	Merchandise Selling
1424.290	Tip Sheets
1424.300	Alcoholic Beverages
1424.310	Jockey Quarters
1424.320	Water Supply and Washrooms
1424.330	Drug Vendors
1424.340	Seven Day Rule
1424.350	Penalty for Violation of Rules
1424.353	Stall Availability Prior to Meet
1424.355	

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 9, par. 37-9(b)).

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); added October 25, 1973, filed November 26, 1973; added August 8, 1973; amended February 15, 1974, filed February 28, 1974; amended April 11, 1974, filed April 30, 1974; amended July 12, 1974, filed July 22, 1974, amended October 25, 1974, filed November 7, 1974; amended March 14, 1975, filed and effective March 27, 1975; amended May 9, 1975, filed May 15, 1975; amended June 19, 1976, filed June 25, 1976; amended December 9, 1977, filed December 29, 1977; amended at 4 Ill. Reg. 41, p. 164, effective September 26, 1980; codified at 5 Ill. Reg. 10996; amended at 8 Ill. Reg. 12460, effective June 27, 1984; amended at 9 Ill. Reg. 9166, effective May 30, 1985; amended at 14 Ill. Reg. _____, effective _____.

Section 1424.355 Stall Availability Prior to Meet

Those applicants for racing dates which are allotted the first meetings for the thoroughbred racing season in any year, as a condition to their receiving their licenses to conduct racing meetings, shall make available to those horsemen who are to participate in such first meetings, and their horses, the backstretch and racing facilities at the race track at which such first meeting is to be conducted no less than three week prior to the commencement of such first meetings in the case of race tracks located inside Cook County and no less than six weeks prior to the commencement of such first meeting in the case of race tracks located outside Cook County.

(SOURCE: Amended at 14 Ill. Reg. _____, effective _____)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

1. Heading of the Part: Security and Admissions
2. Code Citation: 11 Ill. Adm. Code 1325
3. Section Numbers
1325.120
Proposed Action
Amendment
4. Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b).
5. A complete description of the subjects and issues involved: This rulemaking deals with requirements, restrictions and limitations which will be observed in the issuance of tax exempt credentials.
6. Will these proposed amendments replace emergency amendments currently in effect? No.
7. Does this rulemaking contain an automatic repeal date? No.
8. Do these proposed amendments contain incorporation by reference? No.
9. Are there any other proposed amendments pending in this Part? No.
10. Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
11. Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
All comments should be submitted in writing to:
Illinois Racing Board
Legal Department
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register.
12. Initial Regulatory Flexibility Analysis:
 - A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: 11-27-90

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) Types of small business affected: None.
- C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
- D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED RULES

PART 1325
SECURITY AND ADMISSIONS

Section	
1325.10	Stable Enclosures Fenced
1325.20	Report of Arrival and Departure of Horses
1325.30	Stable Area Security
1325.40	Policing of Premises
1325.50	Admission to Parts of Premises
1325.60	Identification Cards and Badges
1325.70	Admission Statements
1325.80	State Admissions Tax
1325.90	Admissions Records
1325.100	Board Approval of Tickets and Credentials
1325.110	Credential and Ticket Specimens
1325.120	Tax Exempt Credentials
1325.130	Tax Exempt Credentials Report (Repealed)
1325.140	Track Responsible for Credentials
1325.150	Board Access to Records
1325.160	Turnstiles
1325.170	Admission to Track
1325.180	Revocation of Credentials
1325.190	Inspections and Searches
1325.200	Investigative Authority

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch.8, par. 37-9(b)).

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); amended October 25, 1973, filed November 26, 1973; amended March 14, 1975, filed and effective March 27, 1975; amended May 9, 1975, filed May 15, 1975; amended at 4 Ill. Reg. 41, P. 164, effective September 26, 1980; codified at 5 Ill. Reg. 10955; amended at 14 Ill. Reg. 17665, effective October 16, 1990; amended at 14 Ill. Reg. _____, effective _____.

Section 1325.120 Tax Exempt Credentials

- a) The racing secretary shall issue tax exempt credentials of admissions only to those persons showing a current license or receipt therefore, and such others as may be authorized by the secretary of the Board.
- b) Designated employees and officials of the race track operator may issue tax exempt credentials for employee admission, subject to requirements, restrictions and limitations as set forth in each respective classification as follows:

NOTICE OF PROPOSED RULES

- 1) Regular employee's tax exempt admission credentials shall be issued only to persons directly on the operator's payroll, and actively employed during the race meeting.
- 2) Concessionaire tax exempt admission credentials shall be issued only to persons actually on concessionaire payroll and working during the race meeting. Concession tax exempt employee credentials shall be issued only with the use of a large round identification button, provided by the concessionaire, showing the employee's concession number and name. Said button shall to be attached to a garment and prominently worn.

c) Designated employees and officials of the operator and in behalf of the operator, must file requisitions with the secretary of the Board in order to obtain authorization for the issuance of tax exempt tickets or credentials of admission to members of the working press, service employees, officials, and to persons having official business at the track during a race meeting. Said requisition prescribed by the secretary of the Board shall be submitted in duplicate under the signature of the head of the department along with duplicate listing of passes requested, and shall be subject to approval by the secretary of the Board.

d) The following requirements, restrictions and limitations shall be observed in the issuance of tax exempt admission credentials in the classification as hereinafter set forth.

- 1) Service employee's tax exempt admission credentials shall be issued only to persons actually engaged in providing service at a race meeting for a contractor, service company, public utility or others employed during a race meeting. Request for credentials must be made on purveyor's official stationery under duly authorized signature setting forth name of each such employee, duties and justification for each pass requested.
- 2) Business tax exempt admission credentials may only be issued to persons having official business at the track during racing hours and not classified as service employees. Requests for such credentials must be made on company or agency official stationery under the signature of ranking official, setting forth the name of each person for whom a pass is requested, along with duties and justifications.
- 3) Press tax exempt credentials may only be issued to members of the working press when requested on the publication's official stationery under the signature of the editor or manager. All requests shall be subject to limitations based on circulation.

NOTICE OF PROPOSED RULES

- 4) Official tax exempt credentials may only be issued to corporate officials and directors of the track, racing officials and to such others which are supported with proper justifications.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

NOTICE OF PROPOSED AMENDMENTS

1. Heading of the Part: Supertrifecta Rules
2. Code Citation: 11 Ill. Adm. Code 421
3. Section Numbers
421.40 Proposed Action
421.100 Amendment
New Section
4. Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b).
5. A complete description of the subjects and issues involved:
This rulemaking establishes the 75% Carryover Pool and the Exchange Method. It allows the organization to elect the type of Carryover Pool it wishes to have in the Supertrifecta Wagering Pool. This rulemaking also allows the organization to modify the Supertrifecta pool by electing an exchange of tickets between races.
6. Will these proposed amendments replace emergency amendments currently in effect? No.
7. Does this rulemaking contain an automatic repeal date? No.
8. Do these proposed amendments contain incorporation by reference? No.
9. Are there any other proposed amendments pending in this Part?
No.
10. Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
11. Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register.

NOTICE OF PROPOSED AMENDMENTS

12. Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: November 27, 1990
- B) Types of small business affected: None.
- C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
- D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page:

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 421
SUPERTRIFECTA RULES

Section
421.10 Supertrifecta Wager
421.20 Trifecta Rules Shall Apply
421.30 Pool Calculations
421.40 Distribution of Daily Net Pool
421.50 Carryover Pool
421.60 Minimum Field
421.70 Scratches
421.80 Cancellation of Races
421.90 Dead Heats
421.100 Exchange Method

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b)).

SOURCE: Adopted at 14 Ill. Reg. 14982, effective September 4, 1990; amended at 14 Ill. Reg. _____, effective _____.

Section 421.40 Distribution of Daily Net Pool

An organization may elect to either of the following formats prior to the start of the meet:

- 1) 50% Carryover
 - a) Fifty per cent (50%) of the daily net pool, excluding any carryover pool, shall be distributed to holders of tickets which correctly select the first three finishers of the first Supertrifecta race.
 - b) Fifty per cent (50%) of the daily net pool, plus any carryover pool, shall be distributed to holders of tickets which correctly designate both the first three finishers of the first Supertrifecta race and the first four finishers of the second Supertrifecta race.

NOTICE OF PROPOSED AMENDMENTS

- c) If no tickets are sold which correctly select the finishers of both Supertrifecta races, fifty per cent (50%) of the daily net pool shall be carried over to the next race program and combined with the net Supertrifecta pool for said program and added to any accumulated carryover pool.
- d) Fifty per cent (50%) of the daily net pool shall be carried over in this fashion each program until at least one ticket is sold which correctly selects the finishers of both races of the Supertrifecta or until a mandatory distribution is ordered.

2. 75% Carryover

- a) Twenty-five per cent (25%) of the daily net pool, excluding any carryover pool, shall be distributed to holders of tickets which correctly select the first three finishers of the first Supertrifecta race.
- b) Seventy-five per cent (75%) of the daily net pool, plus any carryover pool, shall be distributed to holders of tickets which correctly designate both the first three finishers of the first Supertrifecta race and the first four finishers of the second Supertrifecta race.
- c) If no tickets are sold which correctly select the finishers of both Supertrifecta races, seventy-five per cent (75%) of the daily net pool shall be carried over to the next race program and combined with the net Supertrifecta pool for said program and added to any accumulated carryover pool.
- d) Seventy-five per cent (75%) of the daily net pool shall be carried over in this fashion each program until at least one ticket is sold which correctly selects the finishers of both races of the Supertrifecta or until a mandatory distribution is ordered.

(SOURCE: Amended at 14 Ill. Reg. _____, effective _____)

Section 421.100 Exchange Method

At the election of the organization the Supertrifecta may be conducted with an exchange of pari-mutuel tickets between races in accordance with the rules pertaining to the exchange of pari-mutuel tickets under Part 440 (11 Ill. Adm. Code 440).

(SOURCE: Added at 14 Ill. Reg. _____, effective _____)

NOTICE OF PROPOSED AMENDMENTS

1. Heading of the Part: Thoroughbred Off Track Stabling Rules

2. Code Citation: 11 Ill. Adm. Code 720

3. Section Numbers
720.100 Proposed Action
New Section

4. Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b).

5. A complete description of the subjects and issues involved: This rulemaking requires that horses stabled off track be stabled at facilities that are licensed by the Illinois Racing Board. This rulemaking will ensure the protection of horses and the integrity and honesty of the sport.

6. Will these proposed amendments replace emergency amendments currently in effect? No.

7. Does this rulemaking contain an automatic repeal date? No.

8. Do these proposed amendments contain incorporation by reference? No.

9. Are there any other proposed amendments pending in this Part? No.

10. Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

11. Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Ste. 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register.

12. Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: 11-28-90

B) Types of small business affected: None.

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C) Reporting, bookkeeping or other procedures required for compliance:
N/A

D) Types of professional skills necessary for compliance: N/A.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER d: RULES APPLICABLE TO THOROUGHBRED RACING

PART 720

THOROUGHBRED OFF TRACK STABLING RULES

Section

- 720.10 Definitions
- 720.20 Filing for Permission to Operate
- 720.30 Time Limitation
- 720.40 Jurisdiction of the Board
- 720.50 Registration With Racing Secretary Required
- 720.60 Who May Apply
- 720.70 Licensing of Facility and Personnel
- 720.80 Board Rules and Regulations Apply
- 720.90 Criteria for Approval
- 720.100 Participation in Races

AUTHORITY: Implementing and authorized by the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch.8, par. 37-1 et. seq.).

SOURCE: Adopted at 5 Ill. Reg. 1896, February 27, 1981; effective February 17, 1981; codified at 5 Ill. Reg. 10916; amended at 14 Ill. Reg. _____, effective _____.

Section 720.100 Participation in Races

No horse shall be permitted to enter any pari-mutuel event unless stabled at a Board licensed facility.

(SOURCE: Added at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of Part: County Retailers' Occupation Tax Regulations2) Code Citation: 86 Ill. Adm. Code 2203) Section Numbers:

- 220.101 Amendment
- 220.105 Amendment
- 220.110 Amendment
- 220.115 Amendment
- 220.120 Amendment
- 220.125 Amendment
- 220.130 Amendment

Proposed Action:4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 34, par. 5-1006

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the Home Rule County Retailers' Occupation Tax aspects of tax reform. (P.A. 85-1135) The rules are amended to limit the imposition of tax to home rule counties. Section 220.110 is amended to reflect that the Department of Revenue will be responsible for administration and enforcement of the tax when imposed. Section 220.130 is amended to set forth the manner and the time frames within which a county ordinance imposing the tax will become effective. Other non-substantive amendments have been proposed to update statutory citations and to conform the rules to the requirements of the Secretary of State.

6) Will this proposed rule replace an emergency rule currently in effect:
No

7) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

DEPARTMENT OF REVENUE

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Mr. R. Dale Yung
Administrator
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

- A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 21, 1990
- B) Types of small businesses affected: Any small business which makes sales of tangible personal property at retail in a home rule county.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 220

HOME RULE COUNTY RETAILERS' OCCUPATION TAX REGULATIONS

Section

- 220.101 Nature of the Home Rule County Retailer's Occupation Tax
- 220.105 Registration and Returns
- 220.110 Claims to Recover Erroneously Paid Tax
- 220.115 Jurisdictional Questions
- 220.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
- 220.125 Penalties, Interest and Procedures
- 220.130 Effective Date

AUTHORITY: Implementing the Home Rule County Retailers' Occupation Tax Law of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 5-1006) and authorized by Section 39b29 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b29).

SOURCE: Adopted August 5, 1959; amended at 3 Ill. Reg. 44, p. 185, effective October 19, 1979; codified at 6 Ill. Reg. 9681; amended at ____ Ill. Reg. ____, effective ____.

NOTE: Capitalization denotes statutory language.

Section 220.101 Nature of the Home Rule County Retailer's Occupation Tax

- a) Authority to Impose Tax

~~Counties are~~ Any County which is a home rule unit is authorized by ~~Ill. Rev. Stat. 1979, ch. 34, par. 409.1~~ Section 5-1006 of ~~the Act to revise the law in relation to counties~~ the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 5-1006) to impose a tax on all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with this State's government, at retail ~~within such~~ in the county, ~~at a rate not to exceed 1 1/4%~~ on the gross receipts from sales made in the course of such business. If imposed, such tax shall only be imposed in 1/4% increments. On and after September 1, 1991, this additional tax may not be imposed on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by a home rule county pursuant to the Act and this

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Part and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Illinois Department of Revenue (Department).

b) Passing on the Tax

The legal incidence of the Home Rule County Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Home Rule County Retailers' Occupation Tax Act to reimburse themselves for their sellers' Home Rule County Retailers' Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.1 et seq.), pursuant to such bracket schedules as the Department may have prescribed. (See 86 Ill. Adm. Code 150. Table A)

c) Exclusion From "Gross Receipts"

Any amount added to the selling price of tangible personal property by the seller because of a Home Rule County Retailers' Occupation Tax, or because of the Illinois Retailers' Occupation Tax, or as Illinois Use Tax, and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such Home Rule County Retailers' Occupation Tax.

d) Business Conducted in a Municipality Not Subject to County Retailers' Occupation Tax

To the extent to which a person engages in the business of selling tangible personal property at retail in a municipality, such person shall not be subject to a County Retailers' Occupation Tax whether such municipality has a municipal Retailers' Occupation Tax in effect or not.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 220.105 Registration and Returns

a) Separate Registration not Required

A retailer's registration under the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.) is sufficient for the Home Rule County Retailers' Occupation Tax Act. No special registration for any county's the Home Rule County Retailers' Occupation Tax is required.

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b) Requirements as to Returns

- 1) Every retailer must file a return each month for each county which has a County Retailers' Occupation Tax in effect that month if the retailer is engaged in the business of selling tangible personal property at retail within that county. Provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns quarterly, his County Retailers' Occupation Tax returns shall also be filed quarterly, and provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns annually, his County Retailers' Occupation Tax returns shall also be filed annually. However, the information required for the Home Rule County Retailers' Occupation Taxes may be furnished on the retailer's Home Rule Retailers' Occupation Tax return form in the additional space that is provided on that form for reporting County Retailers' Occupation Tax information.

- 2) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report Home Rule County Retailers' Occupation Tax information in his returns on the same basis. If the retailer files his Illinois Retailers' Occupation Tax returns on the gross sales basis, he must report Home Rule County Retailers' Occupation Tax information in his returns on the gross sales basis.

e) Deductions for Collecting Tax Not Allowed to Retailer Against Local Retailers' Occupation Tax Liability

The deduction from the tax allowed to retailers when remitting Illinois Retailers' Occupation Tax or Use Tax with a duly filed return is not available for County Retailers' Occupation Tax purposes, so the retailer (in remitting County Retailers' Occupation Tax to the Department) should not take any deduction from it for the cost of handling and reporting the tax or because of any other cost.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 220.110 Claims to Recover Erroneously Paid Tax

a) Incorporation by Reference

In general, the provisions of Subpart O of the Illinois Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130) shall apply.

b) Separate Claim Required for each Tax Claims for Multiple Taxes

If the claimant files a claim for some State and some County

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Retailers! Occupation Tax paid erroneously as to the same transactions, the claims will be audited, heard or otherwise processed together whenever practicable. However, the amount of the State tax and the amount of the County Retailers' Occupation Tax must be claimed separately and separate credit memoranda will be issued if such claims are approved.

e) Use of Credit Memoranda

The State Retailers' Occupation Tax or Use Tax credit memorandum may be used by the claimant or his authorized assignee only to pay State tax liability and may not be used to pay any County Retailers' Occupation Tax liability. Conversely, a County Retailers' Occupation Tax credit memorandum may not be used to pay a State tax liability and a County Retailers' Occupation Tax memorandum may not be used to pay a Municipal Retailers' Occupation Tax liability. Since each county's Retailers' Occupation Tax is separate from every other county's Retailers' Occupation Tax, and given credit memorandum for the erroneous payment of a county's Retailers' Occupation Tax may be used by the claimant or his authorized assignee only to pay further county tax liability (County Retailers' Occupation Tax of County Service Occupation Tax, Ill. Rev. Stat. 1979, ch. 347, par. 409.2) due to that particular county.

a) Prohibition against Unjust Enrichment

1) A claim for a County Retailers' Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such County Retailers' Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount, and (in the latter event) that such vendee did not shift the burden of such amount to his customer or has unconditionally repaid such amount to his customer.

2) The incorporation of Section 6 of the Illinois Retailers' Occupation Tax Act into the County Retailers' Occupation Tax Act by reference carries with it the principle against unjust enrichment provided for with respect to the Illinois Retailers' Occupation Tax when a claim for credit of that kind of tax is proposed of in accordance with Section 6 of the Illinois Retailers' Occupation Tax Act.

e) Refunds

1) In hardship cases (in cases in which the claimant cannot use a credit memorandum and so probably would have to sell it at a loss), the Department will award the claimant a refund rather

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than a credit memorandum. The two most likely situations where this would be the case are the situation in which the claimant had discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future but receives a large credit memorandum which it therefore might take the claimant a long time to liquidate by using it to pay current taxes.

2) Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department will notify the Comptroller, who will cause the order to be drawn for the amount specified, and to the person named in such notification from the Department. Such refund shall be paid by the State Treasurer out of the County Retailers' Occupation Tax fund.

If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 220.115 Jurisdictional Questions

a) County Defined

When used in this Regulation part, "county" does not include any of the all territory located within the county, including all territory within a city, villages or incorporated towns, including an incorporated town which has superseded a civil township.

b) Mere Solicitation of Orders not Doing Business

1) For a seller to incur Home Rule County Retailers' Occupation Tax liability in a given county, the sale must be made in the course of such seller's engaging in the retail business within such county. In other words, enough of the selling activity must occur within the home rule county to justify concluding that the seller is engaged in business within the home rule county with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State),

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where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a home rule county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

c) Seller's Acceptance of Order

1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the county or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of Subsections (g) and (h) of this Regulation Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the home rule county or by someone working out of such place of business, the seller incurs Home Rule County Retailers' Occupation Tax liability in that home rule county if the sale is at retail and the purchaser receives the physical possession of the property in Illinois. The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

2) ~~Regardless of the place at which the~~ If a purchase order is accepted where outside this State, but the tangible personal property ~~is~~ which is sold is in an inventory of the retailer located within a county at the time of its sale (or is subsequently produced in Illinois), then delivered in Illinois to the purchaser, ~~and no other municipality of county in this State would receive or would have the power to impose Municipal or County Retailers' Occupation Tax with respect to such sale.~~ the place where the property is located at the time of the sale (or subsequent production in Illinois) will determine where the seller is engaged in business for Home Rule County Retailers' Occupation Tax purposes with respect to such sale.

d) Some Considerations Which Are Not Controlling

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1) Delivery of the property within the county to the purchaser is not necessary for the seller to incur Home Rule County Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for interstate commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the county for the seller to be regarded as being engaged in the business of selling within such county with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Home Rule County Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the county" in the Home Rule County Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to be the place where sales may be made.¹

e) Place of Business Where Long Term or Blanket Contracts are Involved

Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Home Rule County Retailers' Occupation Tax purposes with respect to such orders.

f) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

g) Sales From Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted

¹See Standard Oil Company vs. Department of Finance et al., 383 Ill. 136, for a similar problem under the Illinois Retailers' Occupation Tax Act.

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orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made - the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

h) Sales of Coal or Other Minerals

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth.

- 1) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- 2) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to railroads or other carriers, other than common carriers by rail, for their own use outside Illinois if the purchasing carrier takes delivery of the property in Illinois and transports it over its own line to an out-of-State destination.
- 3) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Municipal or Home Rule County Retailers' Occupation Tax on that sale will go to the municipality or county where the retailer is located. This subsection is effective September 17, 1973.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 220.120 Incorporation of Retailers' Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130), ~~whether characterized as rules, articles or by some other designation~~ ~~which are now in effect or which may hereafter be amended or promulgated~~ and which are not incompatible with the Home Rule County Retailers' Occupation Tax Act or any special Regulations that may be promulgated by the Department thereunder, are

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incorporated herein by reference and made a part hereof.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 220.125 Penalties, Interest and Procedures

All penalties (both civil and criminal), provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Home Rule County Retailers' Occupation Tax Act as under the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, Ch. 120, pars. 440 et seq.).

(Source: Amended at Ill. Reg. _____, effective _____)

Section 220.130 Effective Date

~~When a given County Retailers' Occupation Tax goes into effect, it applies to sales made in the course of the seller's engaging in the business of setting tangible personal property at retail within the taxing county on or after the effective date of the ordinance or resolution imposing such tax. An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a Home Rule County Retailers' Occupation Tax shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of September next following such adoption and filing. For this purpose, the date of the sale is deemed to be the date of the delivery of the property. the same rule applies when determining the effective date of an increase in the rate of a County Retailers' Occupation Tax.~~

(Source: Amended at Ill. Reg. _____, effective _____)

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1) Heading of Part: County Service Occupation Tax Regulations

2) Code Citation: 86 Ill. Adm. Code 230

<u>Section Numbers:</u>	<u>Proposed Action:</u>
230.101	Amendment
230.105	Amendment
230.110	Amendment
230.115	Amendment
230.120	Amendment
230.125	Amendment
230.130	Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 34, par. 5-1007

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the Home Rule County Service Occupation Tax aspects of tax reform. It changes the rate of tax to conform to current law. (P.A. 85-1135) Section 230.110 is amended to reflect that the Department of Revenue now administers and enforces local Service Occupation Taxes. Other non-substantive amendments have been proposed to update statutory citations and to conform the rules to the requirements of the Secretary of State.

6) Will this proposed rule replace an emergency rule currently in effect: No

7) Does this rulemaking contain an automatic repeal date? Yes X No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Mr. R. Dale Yung
Administrator
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990

B) Types of small businesses affected: Any small business which sells tangible personal property in the course of sales of service in the geographic area subject to the Home Rule County Service Occupation Tax.

C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.

D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 230
HOME RULE COUNTY SERVICE OCCUPATION TAX REGULATIONS

- Section
230.101 Nature of the Home Rule County Service Occupation Tax
230.105 Registration and Returns
230.110 Claims to Recover Erroneously Paid Tax
230.115 Jurisdictional Questions
230.120 Incorporation of Service Occupation Tax Regulations by Reference
230.125 Penalties, Interest and Procedures
230.130 Effective Date

AUTHORITY: Implementing the Home Rule County Service Occupation Tax Law of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 5-1007) and authorized by Section 39b29 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b29).

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9681; amended at Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 230.101 Nature of the Home Rule County Service Occupation Tax

- a) Authority to Impose Tax

~~Counties~~ The corporate authorities of a home rule county are authorized by ~~Ill. Rev. Stat., 1979, ch. 34, par. 409.2~~ Section 5-1007 of ~~an Act to revise the law in relation to counties~~ the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 5-1007) to impose a tax on persons engaged in the business of making sales of service ~~within the incorporated area of~~ in such county, at a the same rate of tax imposed pursuant to Section 5-1006 ~~net to exceed 1%~~ of the ~~cost~~ selling price of all tangible personal property transferred by such serviceman either in the form of tangible personal property or in the form of real estate as an incident to such sale of service. If imposed, such tax shall only be imposed in 1/4% increments. The tax imposed by a home rule county pursuant to the Act and this part, and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Illinois Department of Revenue (Department).

- b) Passing on the Tax
~~Suppliers of~~ servicemen are required to collect the Home Rule

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County Service Occupation Tax (when applicable) from purchasing ~~servicemen except when they can appropriately assume the accounting ability for self-assessing the tax under Subpart M~~ purchasers of service in conformance with the requirements of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140). The legal incidence of the Home Rule County Service Occupation Tax is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Home Rule County Service Occupation Tax Act to reimburse themselves for their serviceman's Home Rule County Service Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.31 et seq.), pursuant to such bracket schedules as the Department may prescribe.

- c) Exclusion From "Cost Prices"

Any amount added by a ~~supplier~~ serviceman to the cost selling price of tangible personal property ~~sold to a serviceman for transfer~~ as an incident to service because of a Home Rule County Service Occupation Tax, or because of the Illinois Service Occupation Tax, shall not be regarded as a part of the cost selling price which is subject to such Home Rule County Service Occupation Tax.

- d) ~~Business Conducted in a Municipality Not Subject to County Service Occupation Tax~~

~~to the extent to which a person engages in the business of making sales of service in a municipality, such person shall not be subject to a County Service Occupation Tax whether such municipality has a County Service Occupation Tax in effect or not.~~

(Source: Amended at Ill. Reg. _____, effective _____)

Section 230.105 Registration and Returns

- a) A serviceman's registration under the Service Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.101 et seq.) or the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.) is sufficient for the purposes of the Home Rule County Service Occupation Tax Act. No special registration for any the Home Rule County's Service Occupation Tax is required.

- b) ~~Every taxpayer must file a return each month for each county to which he owes County Service Occupation Tax. However, the information required for the Home Rule County Service Occupation Taxes may~~

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shall be furnished on the taxpayer's Illinois Service Occupation Tax Return form in the additional space that is provided on that form for reporting County Service Occupation Tax information.

- c) The provisions of Subpart D of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140) (including the provisions concerning quarterly and annual returns as well as other provisions which are not inconsistent with the County Service Occupation Tax Act or with this Regulation) are herein incorporated by reference and made a part of this Regulation Part.

(Source: Amended at ____ Ill. Reg. ____, effective ____)

Section 230.110 Claims to Recover Erroneously Paid Tax

- a) Incorporation by Reference

In general, the provisions of Subpart N of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140) shall apply.

- b) Separate Claim Required for Each Tax Claims for Multiple Taxes

If the claimant files a claim for some State and some County Service Occupation Tax paid erroneously as to the same transactions, the claim will be audited, heard or otherwise processed together whenever practicable. However, separate credit memoranda will be issued if such claims are approved.

- e) Use of Credit Memoranda

The State Service Occupation Tax credit memorandum may be used by the claimant or his authorized assignee only to pay State Service Occupation Tax, State Service Use Tax, State Retailers' Occupation Tax or State Use Tax, and may not be used to pay any Municipal Tax liability. Any given credit memorandum for the erroneous payment of a county's Service Occupation Tax may be used by the claimant or his authorized assignee only to pay further County Service Occupation or County Retailers' Occupation Tax (Ill. Rev. Stat., 1979, ch. 347 par. 409.1) due to that particular county.

- d) Prohibition Against Unjust Enrichment

A claim for a County Service Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such County Service Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount and (in the latter event) that such vendee did not shift the burden of such

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amount to his customer or has unconditionally repaid such amount to his customer, the incorporation of Section 17 of the Illinois Service Occupation Tax Act into the County Service Occupation Tax Act by reference carries with it the principle against unjust enrichment provided for with respect to the Illinois Service Occupation Tax when a claim for credit of that kind of tax is disposed of in accordance with Section 17 of the Service Occupation Tax Act.

- e) Refunds

1) In hardship cases (in cases in which the claimant cannot use a credit memorandum and so probably would have to sell it at a loss), the Department will award the claimant a refund rather than a credit memorandum. The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future, but receives a large credit memorandum which it therefore might take the claimant a long time to liquidate by using it to pay current taxes.

2) Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department will notify the Comptroller who will cause the order to be drawn for the amount specified and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the County Retailers' Occupation Tax fund.

If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at ____ Ill. Reg. ____, effective ____)

Section 230.115 Jurisdictional Questions

- a) When used in this Regulation Part, "county" does not include any of the all territory located within the county, including all territory within a city, villages or incorporated towns, including an incorporated town which has superseded a civil township.

- b) If the Illinois Service Occupation Tax is collected on the

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~~transaction by the supplier from the purchasing serviceman for remittance to the Department by such supplier, the supplier shall also collect and remit County Service Occupation Tax on the transaction if the supplier's place of business is located in a county which has adopted the County Service Occupation Tax and such County Service Occupation Tax shall be credited to the supplier's county.~~

eb) If the Illinois Service Occupation Tax on a transaction is being remitted directly to the Department by the serviceman rather than by a supplier, the serviceman shall also pay Home Rule County Service Occupation Tax to the Department on the same transaction if such serviceman's place of business is located in a home rule county which has adopted the Home Rule County Service Occupation Tax. This is true whether the serviceman bought the property in Illinois or outside Illinois.

d) ~~When the County Service Occupation Tax is being remitted directly to the Department by the serviceman, the County Service Occupation Tax shall be credited to the serviceman's county.~~

(Source: Amended at Ill. Reg. _____, effective _____)

Section 230.120 Incorporation of Service Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Service Occupation Tax Regulations (86 Ill. Adm. Code 140), ~~(whether characterized as Rules, Articles or by some other designation), which are now in effect or which may hereafter be amended or promulgated, and which are not incompatible with the Home Rule County Service Occupation Tax Act or any special Regulations that may be promulgated by the Department thereunder, are incorporated herein by reference and made a part hereof.~~

(Source: Amended at Ill. Reg. _____, effective _____)

Section 230.125 Penalties, Interest and Procedures

All penalties (both civil and criminal), provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Home Rule County Service Occupation Tax Act as under the ~~Illinois~~ Service Occupation Tax Act.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 230.130 Effective Date

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NOTICE OF PROPOSED AMENDMENTS

~~When a given County Service Occupation Tax goes into effect, it applies to sales made in the course of the serviceman's engaging in the business of selling services within the taxing county on or after the effective date of the ordinance or resolution imposing such tax. An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a Home Rule County Service Occupation Tax shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of September next following such adoption and filing. For this purpose, the date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman retransfers as an incident to service.~~

(Source: Amended at Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

- 1) Heading of Part: County Use Tax Regulations
- 2) Code Citation: 86 Ill. Adm. Code 240
- 3) Section Numbers: Proposed Action:
 240.101 Repealer
 240.105 Repealer
 240.110 Repealer
 240.115 Repealer
 240.120 Repealer
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 34, par. 5-1008
- 5) A Complete Description of the Subjects and Issues Involved: This rule-making repeals the Department's rules on the County Use Tax. Pursuant to current law, only a home rule county may impose a Use Tax and the home rule county, rather than the Department, is responsible for the collection and administration of a Use Tax imposed pursuant to Section 5-1008 of the Counties Code.
- 6) Will this proposed rule replace an emergency rule currently in effect:
 No
- 7) Does this rulemaking contain an automatic repeal date? Yes ☒ No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part: No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Mr. R. Dale Yung
 Administrator
 Illinois Department of Revenue
 Legal Services Bureau
 101 West Jefferson
 Springfield, Illinois 62708
 Phone: (217) 782-6336

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED REPEALER

12) Initial Regulatory Flexibility Analysis:

- A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which purchases any item of tangible personal property titled or registered with an agency of this State's government for use in a Home Rule County.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping requirements applicable to other users of tangible personal property titled or registered with an agency of this State's government.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED REPEALER

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 240
COUNTY USE TAX REGULATIONS

Section

- 240.101 Nature and Rate of the Tax (Repealed)
 240.105 Items Covered (Repealed)
 240.110 Incorporation of Use Tax Regulations by Reference (Repealed)
 240.115 Penalties, Interest and Procedures (Repealed)
 240.120 Effective Date (Repealed)

AUTHORITY: Implementing and authorized by the County Use Tax Act (Ill. Rev. Stat. 1989, ch. 34, par. 303a-3).

SOURCE: Adopted December 5, 1974; codified at 6 Ill. Reg. 9681; amended at 9 Ill. Reg. 7936, effective May 14, 1985; amended at _____ Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 240.101 Nature and Rate of the Tax (Repealed)

THE COUNTY BOARD OF A COUNTY MAY IMPOSE A TAX UPON THE PRIVILEGE OF USING, IN SUCH COUNTY, ANY ITEM OF TANGIBLE PERSONAL PROPERTY WHICH IS PURCHASED OUTSIDE ILLINOIS AT RETAIL FROM A RETAILER, AND WHICH IS TITLED OR REGISTERED WITH AN AGENCY OF THIS STATE'S GOVERNMENT, AT A RATE NOT TO EXCEED 1% OF THE SELLING PRICE OF SUCH TANGIBLE PERSONAL PROPERTY, AS "SELLING PRICE" IS DEFINED IN THE USE TAX ACT, (Ill. Rev. Stat. 1979, ch. 120, pars. 439.1 et seq.), APPROVED JULY 14, 1955, AS AMENDED. SUCH TAX SHALL BE COLLECTED FROM PERSONS WHOSE ILLINOIS ADDRESS FOR TITLING OR REGISTRATION PURPOSES IS GIVEN AS BEING IN THE UNINCORPORATED AREA OF SUCH COUNTY. SUCH TAX SHALL BE SUCH TAX MUST BE PAID TO THE STATE, OR AN EXEMPTION DETERMINATION MUST BE OBTAINED FROM THE DEPARTMENT OF REVENUE, BEFORE THE TITLE OR CERTIFICATE OF REGISTRATION FOR THE PROPERTY MAY BE ISSUED. THE TAX OR PROOF OF EXEMPTION MAY BE TRANSMITTED TO THE DEPARTMENT BY WAY OF THE STATE AGENCY WITH WHICH, OR STATE OFFICER WITH WHOM, THE TANGIBLE PERSONAL PROPERTY MUST BE TITLED OR REGISTERED IF THE DEPARTMENT AND SUCH AGENCY OR STATE OFFICER DETERMINE THAT THIS PROCEDURE WILL EXPEDITE THE PROCESSING OF APPLICATIONS FOR TITLE OR REGISTRATION. (Ill. Rev. Stat. 1979, ch. 34, par. 409.10.)

(Source: Repealed at _____ Ill. Reg. _____, effective _____)

Section 240.105 Items Covered (Repealed)

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NOTICE OF PROPOSED REPEALER

- a) Items which are titled or registered with the State are motor vehicles, aircraft, motorboats, sailboats exceeding 12 feet in length, snowmobiles, and implements of husbandry and special mobile equipment for which the owner decides to apply for an optional title.

- b) For the purposes of this Regulation:

- 1) The term "motor vehicle" includes passenger cars, trucks, buses, motorcycles and any kind of vehicle which is required to be titled under the Illinois Vehicle Code (Ill. Rev. Stat. 1979, ch. 95 1/2, pars. 1-100 et seq.), (including house trailers for which a display certificate of title is required).

- 2) The term "implement of husbandry" means:

EVERY VEHICLE DESIGNED AND ADAPTED EXCLUSIVELY FOR AGRICULTURAL, HORTICULTURAL, OR LIVESTOCK RAISING OPERATIONS, INCLUDING FARM WAGONS, WAGON TRAILERS OR LIKE VEHICLES USED IN CONNECTION THEREWITH, OR FOR LIFTING OR CARRYING AN IMPLEMENT OF HUSBANDRY PROVIDED THAT NO FARM WAGON, WAGON TRAILER OR LIKE VEHICLE HAVING A capacity of more than 400 bushels or a GROSS WEIGHT OF MORE THAN 36,000 POUNDS, SHALL BE INCLUDED HEREUNDER. (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 1-130.)

- 3) The term "special mobile equipment" means:

EVERY VEHICLE NOT DESIGNED OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR PROPERTY AND ONLY INCIDENTALLY OPERATED OR MOVED OVER A HIGHWAY, INCLUDING BUT NOT LIMITED TO: DITCH DIGGING APPARATUS, WELL BORING APPARATUS AND ROAD CONSTRUCTION AND MAINTENANCE MACHINERY SUCH AS ASPHALT SPREADERS, BITUMINOUS MIXERS, BUCKET LOADERS, TRACTORS OTHER THAN TRUCK TRACTORS, DITCHES, LEVELLING GRADERS, FINISHING MACHINES, MOTOR GRADERS, ROAD ROLLERS, SCARIFIERS, EARTH MOVING CARRIAGES AND SCRAPERS, POWER SHOVELS AND DRAG LINES, AND SELF-PROPELLED CRANES AND EARTH MOVING EQUIPMENT. THE TERM DOES NOT INCLUDE HOUSE TRAILERS, DUMP TRUCKS, TRUCK MOUNTED TRANSIT MIXERS, CRANES OR SHOVELS, OR OTHER VEHICLES DESIGNED FOR THE TRANSPORTATION OF PERSONS OR PROPERTY TO WHICH MACHINERY HAS BEEN ATTACHED. (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 1-191.)

(Source: Repealed at _____ Ill. Reg. _____, effective _____)

Section 240.110 Incorporation of Use Tax Regulations by Reference (Repealed)

To avoid needless repetition, the substance and provisions of all Use Tax Regulations (86 Ill. Adm. Code 150), (whether characterized as Rules, Articles

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NOTICE OF PROPOSED REPEALER

or by some other designation), which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to subject matter and rate, Subpart G as it pertains to registration of out-of-State retailers, and Subpart H as it pertains to deduction for collecting tax, are incorporated herein by reference and made a part hereof.

(Source: Repealed at Ill. Reg. _____, effective _____)

Section 240.115 Penalties, Interest and Procedures (Repealed)

All penalties (both civil and criminal), provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, the filing, processing and disposition of claims, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the County Use Tax Act as under the Illinois Use Tax Act.

(Source: Repealed at Ill. Reg. _____, effective _____)

Section 240.120 Effective Date (Repealed)

When a given County Use Tax goes into effect, it applies to purchases made on or after the effective date of the Resolution imposing the tax. For this purpose, the date of the purchase is deemed to be the date of the delivery of the property to the purchaser. The same rule applies when determining the effective date of an increase or decrease in the rate of a County Use Tax.

(Source: Repealed at Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Metro East Mass Transit District Retailers' Occupation Tax Regulations

2) Code Citation: 86 Ill. Adm. Code 370

3) Section Numbers:
 370.101
 370.105
 370.110
 370.115
 370.120

Proposed Action:
 Amendment
 Amendment
 Amendment
 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 2/3, par. 355.01

5) A Complete Description of the Subjects and Issues Involved: This rule-making implements the Metro East Mass Transit District Retailers' Occupation Tax aspects of tax reform. It changes the rate of tax to conform to current law (P.A. 85-1135). Section 370.110 is amended to reflect that the Department of Revenue now administers and enforces local retailers' Occupation Taxes. Other non-substantive amendments have been proposed to update citations to current laws and conform the rules to the requirements of the Secretary of State.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ☒ No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
 Administrator
 Legal Services Bureau
 Illinois Department of Revenue
 101 West Jefferson
 Springfield, Illinois 62794
 Phone: (217) 782-6336

DEPARTMENT OF REVENUE

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12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which makes sales of tangible personal property in the area subject to the Metro East Retailers' Occupation Tax.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 370

METRO EAST MASS TRANSIT DISTRICT

RETAILERS' OCCUPATION TAX REGULATIONS

- Section
- 370.101 Nature of a Metro East Mass Transit District Retailers' Occupation Tax
- 370.105 Registration and Returns
- 370.110 Claims to Recover Erroneously Paid Tax
- 370.115 Jurisdictional Questions
- 370.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
- 370.125 Penalties, Interest and Procedures
- 370.130 Effective Date

AUTHORITY: Authorized by and implementing Section 5.01 of the Local Mass Transit District Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 355.01).

SOURCE: Adopted at 5 Ill. Reg. 5899, effective May 28, 1981; codified at 6 Ill. Reg. 9681; amended at Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 370.101 Nature of a Metro East Mass Transit District Retailers' Occupation Tax

a) Authority to Impose Tax

The Board of Trustees of a Metro East Mass Transit District is authorized to impose a tax on persons engaged in the business of selling tangible personal property at retail within the district as defined in Section 2(1) of the Local Mass Transit District Act (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, par. 352), at a rate ~~not to exceed~~ of 1/4% of the gross receipts from such sales made in the course of such business within the district.

b) Passing on the Tax

The legal incidence of a Metro East Mass Transit District Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their sellers' Metro East Mass Transit District Retailers' Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act and the additional charge authorized under the

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provisions of the Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.3), ~~or~~ Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1) or Home Rule County Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 34, par. 5-1006, pursuant to such bracket schedules as the Department may have prescribed. (See ~~Subpart B of the Use Tax Regulations~~, 86 Ill. Adm. Code 150.1 Table A)

c) Exclusion From "Gross Receipts"

Any amount added to the selling price of tangible personal property by the seller because of a Metro East Mass Transit District Retailers' Occupation Tax, or because of the Retailers' Occupation Tax (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.), or because of the Non-Home Rule Municipal Retailers' Occupation Tax, ~~or~~ Home Rule Municipal or Home Rule County Retailers' Occupation Tax, or as Illinois Use Tax (Ill. Rev. Stat. 1989, ch. 120, par. 439.1 et seq.), and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such Metro East Mass Transit District Retailers' Occupation Tax.

(Source: Amended at ____ Ill. Reg. _____, effective _____)

Section 370.105 Registration and Returns

a) Separate Registration not Required

A retailer's registration under the Illinois Retailers' Occupation Tax Act is sufficient for the Metro East Mass Transit District. No special registration for Metro East Mass Transit District Retailers' Occupation Tax is required.

b) Requirements as to Returns

1) Every retailer must file a return each month for each district which has a Metro East Mass Transit District Retailers' Occupation Tax in effect that month if the retailer is engaged in the business of selling tangible personal property at retail within that district. Provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns quarterly, his Metro East Mass Transit District Retailers' Occupation Tax returns shall also be filed quarterly and provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns annually, his Metro East Mass Transit District Retailers' Occupation Tax returns shall also be filed annually. However, the information required for the Metro East Mass Transit District Retailers' Occupation Taxes may be furnished on the retailer's Illinois Retailers' Occupation Tax

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return form in the additional space that is provided on that form for reporting Metro East Mass Transit District Retailers' Occupation Tax information.

2) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report Metro East Mass Transit District Retailers' Occupation Tax information in his returns on the same basis. If the retailer files his Illinois Retailers' Occupation Tax returns on the gross sales basis, he must report Metro East Mass Transit District Retailers' Occupation Tax information in his returns on the gross sales basis.

3) Retailers required to make payment on the 7th, 15th, 22nd and last day of the month during which liability is incurred as provided in Section 3 of the Retailers' Occupation Tax Act, are not required to make such quarter-monthly payments of Metro East Mass Transit District Retailers' Occupation Tax.

e) Deduction for Collecting Tax not Allowed to Retailer Against Metro East Mass Transit District Retailers' Occupation Tax Liability

The deduction from the tax allowed to retailers when remitting Illinois Retailers' Occupation Tax or Use Tax with a duly filed return is not available for Metro East Mass Transit District Retailers' Occupation Tax purposes so the retailer (in remitting Metro East Mass Transit District Retailers' Occupation Tax to the Department) should not take any deduction from it for the cost of handling and reporting the tax or because of any other cost.

(Source: Amended at ____ Ill. Reg. _____, effective _____)

Section 370.110 Claims to Recover Erroneously Paid Tax

a) Incorporation by Reference

The provisions of Subpart 0 of the Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130) shall apply to the extent specified in Section 370.120 of this Part.

b) Separate Claim Required for Each Tax Claim for Multiple Taxes

If the claimant files a claim for some State, some Municipal or County Retailers' Occupation Tax and some Metro East Mass Transit District Retailers' Occupation Tax paid erroneously as to the same transactions, the claimant will be audited, heard or otherwise processed together whenever practicable. However, the amount of the State tax, the amount of the Municipal or County Retailers'

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Occupation Tax, or the amount of Metro-Bast-Mass-Transit-District Retailers' Occupation Tax must be claimed separately, and separate credit memoranda will be issued if such claims are approved.

e) Use of Credit Memoranda

1) The State-Retailers' Occupation Tax, Use Tax or Municipal or County-Retailers' Occupation Tax credit memorandum may be used by the claimant or his authorized assignee only to pay State or local tax liability and may not be used to pay any Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax liability. Any Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax credit memorandum may not be used to pay a State or local tax liability.

2) Since Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax is separate from every other municipality's or county's Retailers' Occupation Tax, any given credit memorandum for the exclusive payment of a Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax may be used by the claimant or his authorized assignee only to pay further Metro-Bast-Mass-Transit-District-Retailers' tax liability (Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax or Metro-Bast-Mass-Transit-District-Servicer Occupation Tax), due to the district.

a) Provision Against Unjust Barterment

A claim for Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such Metro-Bast-Mass-Transit-District-Retailers' Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount, and (in the latter event) that such vendee did not shift the burden of such amount to his customer or has unconditionally repaid such amount to his customer.

e) Refunds

The Department shall award the claimant a refund unless the claimant requests, in writing, that a credit memorandum be issued. Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department shall notify the claimant, who will cause the warrant to be drawn for the amount specified, and to the person named in such notification from the Department. Such refund shall be paid by the State Treasurer out of the Metro-Bast-Mass-Transit-District tax fund.

If a claimant files a claim for refund on a transaction which was

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subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 370.115 Jurisdictional Questions

a) Mere Solicitation of Orders not Doing Business

1) For a seller to incur Metro East Mass Transit District Retailers' Occupation Tax liability in the district, the sale must be made in the course of such seller's engaging in the retail business within the district. In other words, enough of the selling activity must occur within the district to justify concluding that the seller is engaged in business within the district with respect to that sale.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

b) Seller's Acceptance of Order

1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the district or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of subsections (f) and (g) of this Regulation Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business ~~within~~ within the district or by someone working out of

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such place of business, the seller incurs Metro East Mass Transit District Retailers' Occupation Tax liability in the district if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.

2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

3) ~~Regardless of the place at which the~~ If a purchase order is accepted, ~~where outside this State, but the tangible personal property is which is sold is in an inventory of the retailer located within the district at the time of its sale (or is subsequently produced in the region) then delivered in Illinois to the purchaser, and no municipality or county outside the district in this State would receive or would have the power to impose Municipal or County Retailers' Occupation Tax with respect to such sale,~~ the seller will be considered to be engaged in business in the district for Metro East Mass Transit District Retailers' Occupation Tax purposes with respect to such sale.

c) Some Considerations Which are not Controlling

1) Delivery of the property within the district to the purchaser is not necessary for the seller to incur Metro East Mass Transit District Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the district for the seller to be regarded as being engaged in the business of selling within the district with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Metro East Mass Transit District Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the district" in Section 5.01(b) of the Local Mass Transit District Act refers only to the location of the occupation of selling that is being

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taxed and not to the place where sales may be made.¹

d) Place of Business where Long Term or Blanket Contracts are Involved

Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Metro East Mass Transit District Retailers' Occupation Tax purposes with respect to such orders.

e) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

f) Sales From Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made--the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

g) Sales of Coal or Other Minerals

1) For the purpose of determining whether the Metro East Mass Transit District Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth.

2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

3) A mineral mined in Illinois, but shipped out of Illinois by the Standard Oil Company vs. Department of Finance, et al., 383 Ill. 136, for a similar problem under the Illinois Retailers' Occupation Tax Act.

seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to ~~railroads or other~~ carriers, other than common carriers by rail, for their own use outside Illinois if the purchasing carrier takes delivery of the property in Illinois and transports it over its own line to an out-of-State destination.

- 4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Metro East Mass Transit District Retailers' Occupation Tax on the sale will be applicable if the retailer is located in the district.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 370.120 Incorporation of Retailers' Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130), ~~(whether characterized as rules, articles, parts, sections or by some other designation), which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to rate, Subpart B as it pertains to the deduction for declining-basis, Subpart C as it pertains to use of a credit memorandum in discharge any State or Municipal Tax liability, are incorporated herein by reference and made a part hereof.~~

(Source: Amended at Ill. Reg. _____, effective _____)

- 1) Heading of the Part: Metro East Mass Transit District Service Occupation Tax Regulations
- 2) Code Citation: 86 Ill. Adm. Code 380
- 3) Section Numbers:
380.101 Proposed Action:
380.110 Amendment
380.115 Amendment
380.120 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 2/3, par. 355.01
- 5) A Complete Description of the Subjects and Issues Involved: This rule-making implements the Metro East Mass Transit District Service Occupation Tax aspects of tax reform. It changes the rate of tax to conform to current law (P.A. 85-1135). Section 380.110 is amended to reflect that the Department of Revenue now administers and enforces local Service Occupation Taxes. Other non-substantive amendments have been proposed to update citations to current laws and conform the rules to the requirements of the Secretary of State.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? Yes ☒ No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

- 12) Initial Regulatory Flexibility Analysis:

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- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which sells tangible personal property in the course of sales of service in the geographic area subject to the Metro East Service Occupation Tax.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 380
METRO EAST MASS TRANSIT DISTRICT
SERVICE OCCUPATION TAX REGULATIONS

Section

- 380.101 Nature of the Metro East Mass Transit District Service Occupation Tax
380.105 Registration and Returns
380.110 Claims to Recover Erroneously Paid Tax
380.115 Jurisdictional Questions
380.120 Incorporation of Service Occupation Tax Regulations by Reference
380.125 Penalties, Interest and Procedures
380.130 Effective Date

AUTHORITY: Authorized by and implementing Section 5.01 of the Local Mass Transit District Act (Ill. Rev. Stat. 1979-Super 1989, ch. 111 2/3, par. 355.01).

SOURCE: Adopted at 5 Ill. Reg. 5907, effective May 28, 1981; amended at 6 Ill. Reg. 9681; amended at ___ Ill. Reg. ___, effective ____.

NOTE: Capitalization denotes statutory language.

Section 380.101 Nature of the Metro East Mass Transit District Service Occupation Tax

a) Authority to Impose Tax

If a Retailers' Occupation Tax is imposed, the Board of Trustees of a Metro East Mass Transit District is authorized to impose tax on persons engaged in the business of making sales of service within the Metro East Mass Transit District as defined in Section 2(i) of the Local Mass Transit District Act (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, par. 352), at a rate not-to-exceed of 1/4% of the cost selling price of tangible personal property transferred as an incident to such sale of service within the District.

b) Passing on the Tax

Suppliers of servicemen are required to collect the Metro East Mass Transit District Service Occupation Tax (when applicable) from purchasing servicemen except when they can appropriately assume the accountability for self-assessing the tax under Subpart 14 of the Service Occupation Tax Regulations (86-III-Adm. Code 140). The legal incidence of the Metro East Mass Transit District Service Occupation Tax (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, par. 355.01)

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is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their serviceman's Metro East Mass Transit District Service Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.31 et seq.), pursuant to such bracket schedules as the Department may have prescribed. (See 86 Ill. Adm. Code 150. Table A.)

c) Exclusion From "Gross Selling Prices"

Any amount added by a supplier to the gross selling price of tangible personal property sold to a serviceman for retransfer as an incident to service because of Metro East Mass Transit District Service Occupation Tax, or because of the Service Occupation Tax (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.101 et seq.) and reimbursing amounts collected pursuant to Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 34, par. 499.2 5-1007) and Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 25 24, par. 8-11-5), Non-Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.4) and collected from the purchasing serviceman, shall not be regarded as a part of the gross selling prices which are subject to such Metro East Mass Transit District Service Occupation Tax.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 380.110 Claims to Recover Erroneously Paid Tax

a) Incorporation by Reference

The provisions of Subpart N of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140) shall apply to the extent specified in Section 380.120 of this part.

b) Separate Claim Required for Each Tax Claims for Multiple Taxes

If the claimant files a claim for some State, some County and some Municipal Service Occupation Tax and some Metro East Mass Transit District Service Occupation Tax paid erroneously as to the same transactions, the claims will be audited, heard or otherwise processed together whenever practicable. However, separate credit memoranda will be issued if such claims are approved.

e) Use of Credit Memoranda

The State Service Occupation Tax credit memorandum may be used by

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the claimant or his authorized assignee only to pay State Service Occupation Tax, State Service Use Tax, State Retailers' Occupation Tax or State Use Tax and may not be used to pay any Metro East Mass Transit District tax liability. Any given credit memorandum for the erroneous payment of Metro East Mass Transit District Service Occupation Tax may be used by the claimant or his authorized assignee only to pay further Metro East Mass Transit District Service Occupation or Metro East Mass Transit District Retailers' Occupation Tax due.

d) Prohibition Against Unjust Enrichment

A claim for a Metro East Mass Transit District Service Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such Metro East Mass Transit District Service Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount, and (in the latter event) that such vendee did not shift the burden of such amount to his customer or has unconditionally repaid such amount to his customer. The incorporation of Section 17 of the Service Occupation Tax Act into Section 5.01(f) of the Local Mass Transit District Act by reference carries with it the principle against unjust enrichment provided for with respect to the Service Occupation Tax when a claim for credit of that kind of tax is disposed of in accordance with Section 17 of the Service Occupation Tax Act.

e) Refunds

The Department shall award the claimant a refund unless the claimant requests in writing that a credit memorandum be issued. Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department will notify the Comptroller who will cause the warrant to be drawn for the amount specified, and to the person named in such notification from the Department. Such refund shall be paid by the State Treasurer out of the Metro East Mass Transit District tax fund.

If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

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Section 380.115 Jurisdictional Questions

a) If the Service Occupation Tax is collected on the transaction by the supplier from the purchasing serviceman for remittance to the Department by such supplier, the supplier shall also collect and remit Metro-East Mass Transit District Service Occupation Tax on the transaction if the supplier's place of business is located in the district and such Metro-East Mass Transit District Service Occupation Tax rate shall be determined by the supplier's district.

b) If the Service Occupation Tax on a transaction is being remitted directly to the Department by the serviceman rather than by a supplier, the serviceman shall also pay Metro East Mass Transit District Service Occupation Tax to the Department on the same transaction if such serviceman's place of business is located in the district. This is true whether the serviceman bought the property in Illinois or outside Illinois.

e) When the Metro-East Mass Transit District Service Occupation Tax is being remitted directly to the Department by the serviceman, the Metro-East Mass Transit District Service Occupation Tax rate shall be determined by the serviceman's district.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 380.120 Incorporation of Service Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Service Occupation Tax Regulations (86 Ill. Adm. Code 140), (whether characterized as Regulations, Articles, Subparts, Sections, or by some other designation), which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to rate, Subpart B as it pertains to the deduction for collecting tax, Subpart N as it pertains to the use of a credit memorandum to discharge State or Municipal Tax liability, are incorporated herein by reference and made a part hereof.

(Source: Amended at Ill. Reg. _____, effective _____)

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Metro East Mass Transit District Use Tax Regulations

2) Code Citation: 86 Ill. Adm. Code 390

3) Section Numbers: 390.101
390.105
390.110
Proposed Action: Amendment
Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 2/3, par. 355.01

5) A Complete Description of the Subjects and Issues Involved: This rule-making modifies Section 390.101 to change the rate of tax to conform to current law (P.A. 85-1135). Non-substantive amendments to update statutory citations and conform the rules to the requirements of the Secretary of State have also been proposed.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ☒ No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990

NOTICE OF PROPOSED AMENDMENTS

- B) Types of small businesses affected: Any small business which purchases any item of tangible personal property titled or registered with an agency of this State's government for use in a Metro East Mass Transit District.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping requirements applicable to other users of tangible personal property titled or registered with an agency of this State's government.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 390
METRO EAST MASS TRANSIT DISTRICT
USE TAX REGISTRATION

- Section
390.101 Nature and Rate of the Tax
390.105 Items Covered
390.110 Incorporation of Use Tax Regulations by Reference
390.115 Penalties, Interest and Procedures
390.120 Effective Date

AUTHORITY: Authorized by and implementing Section 5.01 of the Local Mass Transit District Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 355.01).

SOURCE: Adopted at 5 Ill. Reg. 5912, effective May 28, 1981, codified at 6 Ill. Reg. 9681; amended at ___ Ill. Reg. ___, effective ___.

NOTE: Capitalization denotes statutory language.

Section 390.101 Nature and Rate of the Tax

If a Metro East Mass Transit District Retailers' Occupation Tax is imposed, THE BOARD OF TRUSTEES OF A METRO EAST MASS TRANSIT DISTRICT MAY IMPOSE TAX UPON THE PRIVILEGE OF USING, IN THE DISTRICT, ANY ITEM OF TANGIBLE PERSONAL PROPERTY WHICH IS PURCHASED OUTSIDE THE DISTRICT AT RETAIL FROM A RETAILER, AND WHICH IS TITLED OR REGISTERED WITH AN AGENCY OF THIS STATE'S GOVERNMENT, AT A RATE ~~NOT TO EXCEED~~ OF 1/4% OF THE SELLING PRICE OF SUCH TANGIBLE PERSONAL PROPERTY WITHIN THE DISTRICT AS "SELLING PRICE" IS DEFINED IN THE "USE TAX ACT", APPROVED JULY 14, 1955, AS NOW OR HEREAFTER AMENDED. (Ill. Rev. Stat. 1979 1989, ch. 120, par. 439.2) SUCH TAX SHALL BE COLLECTED FROM PERSONS WHOSE ILLINOIS ADDRESS FOR TITLING OR REGISTRATION PURPOSES IS GIVEN AS BEING IN THE DISTRICT. SUCH TAX SHALL BE COLLECTED BY THE DEPARTMENT OF REVENUE FOR THE METRO EAST MASS TRANSIT DISTRICT. SUCH TAX MUST BE PAID TO THE STATE, OR AN EXEMPTION DETERMINATION MUST BE OBTAINED FROM THE DEPARTMENT OF REVENUE, BEFORE THE TITLE OR CERTIFICATE OF REGISTRATION FOR THE PROPERTY MAY BE ISSUED. THE TAX OR PROOF OF EXEMPTION MAY BE TRANSMITTED TO THE DEPARTMENT BY WAY OF THE STATE AGENCY WITH WHICH, OR STATE OFFICER WITH WHOM, THE TANGIBLE PERSONAL PROPERTY MUST BE TITLED OR REGISTERED IF THE DEPARTMENT AND SUCH AGENCY OR STATE OFFICER DETERMINE THAT THIS PROCEDURE WILL EXPEDITE THE PROCESSING OF APPLICATIONS FOR TITLE OR REGISTRATION. (Ill. Rev. Stat. 1979-Supp. 1989, ch. 111 2/3, par. 355.01.)

(Source: Amended at ___ Ill. Reg. ___, effective ___.)

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NOTICE OF PROPOSED AMENDMENTS

Section 390.105 Items Covered

Items which are titled or registered with the State are motor vehicles, aircraft, ~~motorboats, sailboats, and boats~~ ^{exceeding 12 feet in length} watercraft, snowmobiles, and implements of husbandry and special mobile equipment for which the owner decides to apply for an optional title. For the purposes of this Regulation part:

- a) The term "motor vehicle" includes passenger cars, trucks, buses, motorcycles and any kind of vehicle which is required to be titled under the Illinois Vehicle Code (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, par. 1-146), (including house trailers for which a display certificate of title is required).
- b) The term "implement of husbandry" means:

EVERY VEHICLE DESIGNED AND ADAPTED EXCLUSIVELY FOR AGRICULTURAL, HORTICULTURAL, OR LIVESTOCK RAISING OPERATIONS, INCLUDING FARM WAGONS, WAGON TRAILERS OR LIKE VEHICLES USED IN CONNECTION THEREWITH, OR FOR LIFTING OR CARRYING AN IMPLEMENT OF HUSBANDRY PROVIDED THAT NO FARM WAGON, WAGON TRAILER OR LIKE VEHICLE HAVING A GROSS WEIGHT OF MORE THAN 36,000 POUNDS SHALL BE INCLUDED HEREUNDER. (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, par. 1-130.)

- c) The term "special mobile equipment" means:

EVERY VEHICLE NOT DESIGNED OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR PROPERTY AND ONLY INCIDENTALLY OPERATED OR MOVED OVER A HIGHWAY, INCLUDING BUT NOT LIMITED TO: STREET SWEEPERS, DITCH DIGGING APPARATUS, WELL BORING APPARATUS AND ROAD CONSTRUCTION AND MAINTENANCE MACHINERY SUCH AS ASPHALT SPREADERS, BITUMINOUS MIXERS, BUCKET LOADERS, TRACTORS OTHER THAN TRUCK TRACTORS, BULDOZERS, DITCHERS, LEVELLING GRADERS, FINISHING MACHINES, MOTOR GRADERS, ROAD ROLLERS, SCARIFIERS, EARTH MOVING CARRIAGES AND SCRAPPERS, POWER SHOVELS AND DRAG LINES, AND SELF-PROPELLED CRANES AND EARTH MOVING EQUIPMENT. THE TERM DOES NOT INCLUDE HOUSE TRAILERS, DUMP TRUCKS, TRUCK MOUNTED TRANSIT MIXERS, CRANES OR SHOVELS, OR OTHER VEHICLES DESIGNED FOR THE TRANSPORTATION OF PERSONS OR PROPERTY TO WHICH MACHINERY HAS BEEN ATTACHED. (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, par. 1-191.)

- d) WATERCRAFT MEANS EVERY DESCRIPTION OF WATERCRAFT USED OR CAPABLE OF BEING USED AS A MEANS OF TRANSPORTATION ON WATER, EXCEPT A SEAPLANE ON THE WATER, INNER TUBE, AIR MATTRESS OR SIMILAR DEVICE, AND BOATS USED FOR CONCESSION RIDES IN ARTIFICIAL BODIES OF WATER DESIGNED AND USED EXCLUSIVELY FOR SUCH CONCESSIONS. Section 1-2 of the Boat Registration and Safety Act of the Illinois Vehicle Code. (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 311-2). EVERY WATERCRAFT OTHER

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THAN SAILBOARDS, ON WATERS WITHIN THE JURISDICTION OF THIS STATE, SHALL BE NUMBERED. (Section 3-1 of the Boat Registration and Safety Act.)

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 390.110 Incorporation of Use Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Use Tax Regulations (86 Ill. Adm. Code 150), ~~(whether characterized as Rules, Articles, Subparts, Sections or by some other designation)~~ ^{which are now in effect or which may hereafter be amended or promulgated}, except Subpart A as it pertains to subject matter and rate, and Subpart G as it pertains to registration of out-of-State retailers, ~~Subpart H as it pertains to deduction for collecting tax, Subpart M as it pertains to retailers and the use of a credit memorandum to discharge State or municipal tax liabilities~~, are incorporated herein by reference and made a part hereof.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

DEPARTMENT OF REVENUE
NOTICE OF PROPOSED REPEALER

- 1) Heading of Part: Municipal Use Tax Regulations
- 2) Code Citation: 86 Ill. Adm. Code 290
- 3) Section Numbers: Proposed Action:
290.101 Repeal
290.105 Repeal
290.110 Repeal
290.115 Repeal
290.120 Repeal
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 24, pars. 8-11-6 and 8-11-1.5
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking repeals the Department's rules on the Municipal Use Tax. Pursuant to current law, home rule municipalities and non-home rule municipalities are responsible for the collection and administration of Use Taxes imposed pursuant to Sections 8-11-1.5 and 8-11-6 of the Municipal Code.
- 6) Will this proposed rule replace an emergency rule currently in effect:
No
- 7) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part: No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government, it merely repeals an outdated rule.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Mr. R. Dale Yung
Administrator
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 792-6336

ILLINOIS REGISTER
DEPARTMENT OF REVENUE
NOTICE OF PROPOSED REPEALER

12) Initial Regulatory Flexibility Analysis:

- A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which purchases any item of tangible personal property titled or registered with an agency of this State's government for use in a home rule municipality.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping requirements applicable to other users of tangible personal property titled or registered with an agency of this State's government.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED REPEALER

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 290

MUNICIPAL USE TAX REGULATIONS

- Section
290.101 Nature and Rate of the Tax (Repealed)
290.105 Items Covered (Repealed)
290.110 Incorporation of Use Tax Regulations by Reference (Repealed)
290.115 Penalties, Interest and Procedures (Repealed)
290.120 Effective Date (Repealed)

AUTHORITY: Implementing the Municipal Use Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-6) and authorized by Section 39b19 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b19).

SOURCE: Adopted December 5, 1974; amended at 6 Ill. Reg. 2852, effective March 3, 1982; codified at 6 Ill. Reg. 9681; repealed at ___ Ill. Reg. ___, effective ___.

NOTE: Capitalization denotes statutory language.

Section 290.101 Nature and Rate of the Tax (Repealed)

THE CORPORATE AUTHORITIES OF A MUNICIPALITY MAY IMPOSE A TAX UPON THE PRIVILEGE OF USING, IN SUCH MUNICIPALITY, ANY ITEM OF TANGIBLE PERSONAL PROPERTY WHICH IS PURCHASED OUTSIDE ILLINOIS AT RETAIL FROM A RETAILER, AND WHICH IS TITLED OR REGISTERED WITH AN AGENCY OF THIS STATE'S GOVERNMENT, AT A RATE NOT TO EXCEED 1% OF THE SELLING PRICE OF SUCH TANGIBLE PERSONAL PROPERTY, AS "SELLING PRICE" IS DEFINED IN THE "USE TAX ACT", APPROVED JULY 14, 1955, AS AMENDED. (Ill. Rev. Stat. 1979, ch. 120, par. 439.2.) SUCH TAX SHALL BE COLLECTED FROM PERSONS WHOSE ILLINOIS ADDRESS FOR TITLING OR REGISTRATION PURPOSES IS GIVEN AS BEING IN SUCH MUNICIPALITY. SUCH TAX SHALL BE COLLECTED BY THE DEPARTMENT OF REVENUE FOR ANY MUNICIPALITY IMPOSING SUCH TAX. SUCH TAX MUST BE PAID TO THE STATE, OR AN EXEMPTION DETERMINATION MUST BE OBTAINED FROM THE DEPARTMENT OF REVENUE, BEFORE THE TITLE OR CERTIFICATE OF REGISTRATION FOR THE PROPERTY MAY BE ISSUED. THE TAX OR PROOF OF EXEMPTION MAY BE TRANSMITTED TO THE DEPARTMENT BY WAY OF THE STATE AGENCY WITH WHICH, OR STATE OFFICER WITH WHOM, THE TANGIBLE PERSONAL PROPERTY MUST BE TITLED OR REGISTERED. (Ill. Rev. Stat. 1979, ch. 24, par. 8-11-6.)

(Source: Repealed at ___ Ill. Reg. ___, effective ___)

Section 290.105 Items Covered (Repealed)

Items which are titled or registered with the State are motor vehicles, aircraft, motorboats, sailboats exceeding 12 feet in length, snowmobiles, and

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NOTICE OF PROPOSED REPEALER

(Source: Repealed at ___ Ill. Reg. ___, effective ___)

Section 290.105 Items Covered (Repealed)

Items which are titled or registered with the State are motor vehicles, aircraft, motorboats, sailboats exceeding 12 feet in length, snowmobiles, and implements of husbandry and special mobile equipment for which the owner decides to apply for an optional title. For the purposes of this Regulation

- a) The term "motor vehicle" includes passenger cars, trucks, buses, motorcycles and any kind of vehicle which is required to be titled under the Illinois Vehicle Code (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 1-146), (including house trailers for which a display certificate of title is required).
- b) The term "implement of husbandry" means:

EVERY VEHICLE DESIGNED AND ADOPTED EXCLUSIVELY FOR AGRICULTURAL, HORTICULTURAL, OR LIVESTOCK RAISING OPERATIONS, INCLUDING FARM WAGONS, WAGON TRAILERS OR LIKE VEHICLES USED IN CONNECTION THEREWITH, OR FOR LIFTING OR CARRYING AN IMPLEMENT OF HUSBANDRY PROVIDED THAT NO FARM WAGON, WAGON TRAILER OR LIKE VEHICLE HAVING A CAPACITY OF MORE THAN 400 BUSHELS OR A GROSS WEIGHT OF MORE THAN 36,000 POUNDS, SHALL BE INCLUDED HEREUNDER. (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, par. 1-130.)

- c) The term "special mobile equipment" means:

EVERY VEHICLE NOT DESIGNED OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR PROPERTY AND ONLY INCIDENTALLY OPERATED OR MOVED OVER A HIGHWAY, INCLUDING BUT NOT LIMITED TO: DITCH DIGGING APPARATUS, WELL BORING APPARATUS AND ROAD CONSTRUCTION AND MAINTENANCE MACHINERY SUCH AS ASPHALT SPREADERS, BITUMINOUS MIXERS, BACKET LOADERS, TRACTORS OTHER THAN TRUCK TRACTORS, DITCHES, LEVELLING GRADERS, FINISHING MACHINES, MOTOR GRADERS, ROAD ROLLERS, SCARIFIERS, EARTH MOVING CARRYALLS AND SCRAPERS, POWER SHOVELS AND DRAG LINES, AND SELF-PROPELLED CRANES AND EARTH MOVING EQUIPMENT. THE TERM DOES NOT INCLUDE HOUSE TRAILERS, DUMP TRUCKS, TRUCK MOUNTED TRANSIT MIXERS, CRANES OR SHOVELS, OR OTHER VEHICLES DESIGNED FOR THE TRANSPORTATION OF PERSONS OR PROPERTY TO WHICH MACHINERY HAS BEEN ATTACHED. (Ill. Rev. Stat. 1979, ch. 95 1/2, par. 1-191.)

(Source: Repealed at ___ Ill. Reg. ___, effective ___)

Section 290.110 Incorporation of Use Tax Regulations by Reference (Repealed)

To avoid needless repetition, the substance and provisions of all Use Tax

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NOTICE OF PROPOSED REPEALER

Regulations (86 Ill. Adm. Code 150), (whether characterized as Rules, Articles or by some other designation), which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to subject matter and rate; Subpart G as it pertains to registration of out-of-State retailers; Subpart H as it pertains to deduction for collecting tax; Subpart M as it pertains to retailers and the use of a credit memorandum to discharge State or municipal tax liabilities, are incorporated herein by reference and made a part hereof.

(Source: Repealed at ___ Ill. Reg. ___, effective ___)

Section 290.115 Penalties, Interest and Procedures (Repealed)

All penalties (both civil and criminal), provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, the filing, processing and disposition of claims, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Municipal Use Tax Act as under the Use Tax Act (Ill. Rev. Stat. 1979, ch. 120, pars. 439.1 et seq.).

(Source: Repealed at ___ Ill. Reg. ___, effective ___)

Section 290.120 Effective Date (Repealed)

When a given Municipal Use Tax goes into effect, it applies to purchases made on or after the effective date of the Ordinance imposing the tax. For this purpose, the date of the purchase is deemed to be the date of the delivery of the property to the purchaser. The same rule applies when determining the effective date of an increase or decrease in the rate of a Municipal Use Tax.

(Source: Repealed at ___ Ill. Reg. ___, effective ___)

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1) Heading of the Part: Regional Transportation Authority Retailers' Occupation Tax Regulations

2) Code Citation: 86 Ill. Adm. Code 320

3) Section Numbers:
 320.101
 320.105
 320.110
 320.115
 320.120

Proposed Action:
 Amendment
 Amendment
 Amendment
 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03

5) A Complete Description of the Subjects and Issues Involved: This rule-making implements the Regional Transportation Authority Retailers' Occupation Tax aspects of tax reform. It changes the rate of tax to conform to current law (P.A. 85-1135). Section 320.110 is amended to reflect that the Department of Revenue now administers and enforces local Retailers' Occupation Taxes. Other non-substantive amendments have been proposed to update statutory citations and conform the rules to the requirements of the Secretary of State.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ___ No ___

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
 Administrator
 Legal Services Bureau
 Illinois Department of Revenue
 101 West Jefferson
 Springfield, Illinois 62794
 Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

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NOTICE OF PROPOSED AMENDMENTS

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which makes sales of tangible personal property in the Regional Transportation Authority metropolitan region.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 320
REGIONAL TRANSPORTATION AUTHORITY
RETAILERS' OCCUPATION TAX REGULATIONS

Section
320.101

Nature of the Regional Transportation Authority Retailers' Occupation Tax

320.105 Registration and Returns

320.110 Claims to Recover Erroneously Paid Tax

320.115 Jurisdictional Questions

320.120 Incorporation of the Retailers' Occupation Tax Regulations by Reference

320.125 Penalties, Interest and Procedures

320.130 Effective Date

AUTHORITY: Authorized by and implementing Section 4.03 of the Regional Transportation Authority Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03).

SOURCE: Adopted at 4 Ill. Reg. 28, p. 542, effective July 1, 1980; codified at 6 Ill. Reg. 9681; amended at ___ Ill. Reg. ___, effective ___.

NOTE: Capitalization denotes statutory language.

Section 320.101 Nature of the Regional Transportation Authority Retailers' Occupation Tax

a) Authority to Impose Tax

THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION AUTHORITY IS AUTHORIZED TO IMPOSE A TAX ON PERSONS ENGAGED IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL WITHIN THE METROPOLITAN REGION AS DEFINED IN SECTION 1.03 OF THE REGIONAL TRANSPORTATION AUTHORITY ACT (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, pars. 701.01 et seq.), AT A RATE NOT TO EXCEED OF 1% OF THE GROSS RECEIPTS FROM SALES, within the County of Cook, OF FOOD FOR HUMAN CONSUMPTION WHICH IS TO BE CONSUMED OFF THE PREMISES WHERE IT IS SOLD (OTHER THAN ALCOHOLIC BEVERAGES, SOFT DRINKS AND FOOD WHICH HAS BEEN PREPARED FOR IMMEDIATE CONSUMPTION) AND PRESCRIPTION AND NONPRESCRIPTION MEDICINES, DRUGS, MEDICAL APPLIANCES AND INSULIN, URINE TESTING MATERIALS, SYRINGES AND NEEDLES USED BY DIABETICS, AND 3/4% OF THE GROSS RECEIPTS FROM OTHER TAXABLE SALES MADE IN THE COURSE OF SUCH BUSINESS WITHIN THE COUNTY OF COOK AND 1/4% OF THE GROSS RECEIPTS FROM SUCH ALL TAXABLE SALES MADE IN THE COURSE OF SUCH BUSINESS WITHIN THE COUNTIES OF DUPAGE, KANE, LAKE, MCHEERY AND WILL. (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03(e)).

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b) Passing on the Tax

The legal incidence of the Regional Transportation Authority Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their sellers' Regional Transportation Authority Retailers' Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.1 et seq.) and the additional charge authorized under the provisions of the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1), Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.3 or the Home Rule County Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 34, par. 5-1006) pursuant to such bracket schedules as the Department may prescribe. (See, 86 Ill. Adm. Code 150-Table A)

c) Exclusion From "Gross Receipts"

Any amount added to the selling price of tangible personal property by the seller because of a Regional Transportation Authority Retailers' Occupation Tax, or because of the Retailers' Occupation Tax (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.), or because of the Home Rule Municipal Retailers' Occupation Tax, the Non-Home Rule Municipal Retailers' Occupation Tax, or the Home Rule County Retailers' Occupation Tax, or as Illinois Use Tax, and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such Regional Transportation Authority Retailers' Occupation Tax.

(Source: Amended at Ill. Reg. , effective)

Section 320.105 Registration and Returns

a) Separate Registration not Required

A retailer's registration under the Illinois Retailers' Occupation Tax Act is sufficient for the Regional Transportation Authority. No special registration for Regional Transportation Authority Retailers' Occupation Tax is required.

b) Requirements as to Returns

- 1) Every retailer must file a return each month for each county which has a Regional Transportation Authority Retailers' Occupation Tax in effect that month if the retailer is engaged in

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the business of selling tangible personal property at retail within that county: Provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns quarterly, his Regional Transportation Authority Retailers' Occupation Tax returns shall also be filed quarterly; and provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns annually, his Regional Transportation Authority Retailers' Occupation Tax returns shall also be filed annually. However, the information required for the Regional Transportation Authority Retailers' Occupation Taxes may be furnished on the retailer's Illinois Retailers' Occupation Tax return form in the additional space that is provided on that form for reporting Regional Transportation Authority Retailers' Occupation Tax information.

- 2) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report Regional Transportation Authority Retailers' Occupation Tax information in his returns on the same basis. If the retailer files his Illinois Retailers' Occupation Tax return on the gross sales basis, he must report Regional Transportation Authority Retailers' Occupation Tax information in his returns on the gross sales basis.

- 3) Retailers required to make payment on the 7th, 15th, 22nd and last day of the month during which liability is incurred as provided in Section 3 of the Retailers' Occupation Tax Act, are not required to make such quarter-monthly payments of Regional Transportation Authority Retailers' Occupation Tax.

e) Deduction for Collecting Tax--Not Allowed--to Retailer--against Regional Transportation Authority Retailers' Occupation Tax--liability The deduction from the tax allowed to retailers when remitting Illinois Retailers' Occupation Tax or Use Tax with a duly filed return is not available for Regional Transportation Authority Retailers' Occupation Tax purposes--so the retailer (in remitting Regional Transportation Authority Retailers' Occupation Tax to the Department) should not take any deduction from it for the cost of handling and reporting the tax or because of any other cost.

(Source: Amended at Ill. Reg. , effective)

Section 320.110 Claims to Recover Erroneously Paid Tax

- a) Incorporation by Reference

In general, the provisions of Subpart 0 of the Retailers' Occupation

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Tax Regulations (86 Ill. Adm. Code 130) shall apply.

b) Separate Claim Required for each Tax Claims for Multiple Taxes

If the claimant files a claim for some State, some Municipal or County Retailers' Occupation Tax and some Regional Transportation Authority Retailers' Occupation Tax paid erroneously as to the same transactions, the claims will be audited, heard or otherwise processed together whenever practicable. However, the amount of the State Tax, the amount of the Municipal or County Retailers' Occupation Tax, or the amount of Regional Transportation Authority Retailers' Occupation Tax must be claimed separately and separate credit memoranda will be issued if such claims are approved.

e) Use of Credit Memoranda

1) The State Retailers' Occupation Tax, Use Tax or Municipal or County Retailers' Occupation Tax credit memorandum may be used by the claimant or his authorized assignee only to pay State or local tax liability and may not be used to pay any Regional Transportation Authority Retailers' Occupation Tax liability. Also, a Regional Transportation Authority Retailers' Occupation Tax credit memorandum may not be used to pay a State or local tax liability.

2) Since Regional Transportation Authority Retailers' Occupation Tax is separate from every other municipality's or county's Retailers' Occupation Tax, any given credit memorandum for the erroneous payment of the Regional Transportation Authority Retailers' Occupation Tax may be used by the claimant or his authorized assignee only to pay further Regional Transportation Authority Tax liability. (Regional Transportation Authority Retailers' Occupation Tax or Regional Transportation Authority Service Occupation Tax) due to the metropolitan region.

d) Prohibition against Unjust Enrichment

A claim for a Regional Transportation Authority Retailers' Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such Regional Transportation Authority Retailers' Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount and (in the latter event) that such vendee did not shift the burden of such amount to his customer or has unconditionally repaid such amount to his customer.

e) Refunds

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The Department shall award the claimant a refund unless the claimant requests, in writing, that a credit memorandum be issued. Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department shall notify the claimant, who will cause the warrant to be drawn for the amount specified and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the Regional Transportation Authority Tax fund.

If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 320.115 Jurisdictional Questions

a) Mere Solicitation of Orders not Doing Business

1) For a seller to incur Regional Transportation Authority Retailers' Occupation Tax liability in the metropolitan region, the sale must be made in the course of such seller's engaging in the retail business within the metropolitan region. In other words, enough of the selling activity must occur within the metropolitan region to justify concluding that the seller is engaged in business within the metropolitan region with respect to that sale. The same principles are applicable as to determining in which county of the metropolitan region a sale is made.

2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a county as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

b) Seller's Acceptance of Order

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1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, in general, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the metropolitan region or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of Subsections (f) and (g) of this Regulation, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the metropolitan region or by someone working out of such place of business, the seller incurs Regional Transportation Authority Retailers' Occupation Tax liability in the metropolitan region if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.

2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

3) ~~Regardless of the place at which the~~ If a purchase order is accepted ~~where outside this State, but the~~ tangible personal property ~~is which is sold in an inventory of the retailer~~ located within the metropolitan region at the time of its sale (or is subsequently produced in the region), then delivered in Illinois to the purchaser, ~~and no municipality or county enters the metropolitan region in this State would receive of which the power to impose municipal or county retailers' Occupation Tax with respect to such sale, the seller will be considered to be engaged in business in the metropolitan region for Regional Transportation Authority Retailers' Occupation Tax purposes with respect to such sale. The county in the region where the property is located at the time of sale (or subsequent production in a county in the metropolitan region) is determinative of the applicable Regional Transportation Authority Retailers' Occupation Tax rate.~~

c) Some Considerations Which Are Not Controlling

1) Delivery of the property within the metropolitan region to the purchaser is not necessary for the seller to incur Regional Transportation Authority Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there

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is no exemption for intercity commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery to be completed within the metropolitan region for the seller to be regarded as being engaged in the business of selling within the metropolitan region with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Regional Transportation Authority Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase "in the metropolitan region" in Section 4.03(e) of the Regional Transportation Authority Act (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, par. 704.03) refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made.¹

d) Place of Business where Long Term or Blanket Contracts are Involved

Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Regional Transportation Authority Retailers' Occupation Tax purposes with respect to such orders.

e) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

f) Sales from Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made - the vehicle carrying such stock of goods for sale being regarded as a portable place of

¹See Standard Oil Company vs. Department of Finance, et al., 383 Ill. 136, for a similar problem under the Illinois Retailers' Occupation Tax Act.

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business.

g) Sales of Coal or other Minerals

- 1) For the purpose of determining whether the Regional Transportation Authority Retailers' Occupation Tax is applicable for a retail sale by a producer of coal or other mineral mined in Illinois, the sale is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth.
- 2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- 3) A mineral mined in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to ~~freight~~ other carriers, other than common carriers by rail, for their own use outside Illinois if the purchasing carrier takes delivery of the property in Illinois and transports it over its own line to an out-of-State destination.
- 4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Regional Transportation Authority Retailers' Occupation Tax on the sale will be applicable if the retailer is located in the metropolitan region.

(Source: Amended at Ill. Reg. effective)

Section 320.120 Incorporation of the Retailers' Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130), (whether characterized as Rules, Articles or by some other designation), which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to rate, Subpart B as it pertains to the deduction for collecting tax, Subpart C as it pertains to use of a credit memorandum to discharge any State or Municipal tax liability, are incorporated herein by reference and made a part hereof.

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(Source: Amended at Ill. Reg. effective)

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1) Heading of the Part: Regional Transportation Authority Service Occupation Tax Regulations

2) Code Citation: 86 Ill. Adm. Code 330

3) Section Numbers:
 330.101
 330.105
 330.110
 330.115
 330.120

Proposed Action:
 Amendment
 Amendment
 Amendment
 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the Regional Transportation Authority Service Occupation Tax aspects of tax reform. It changes the rate of tax to conform to current law (P.A. 85-1135). Section 330.110 is amended to reflect that the Department of Revenue now administers and enforces local Service Occupation Taxes. Other non-substantive amendments have been proposed to update statutory citations and conform the rules to the requirements of the Secretary of State.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ☒ No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
 Administrator
 Legal Services Bureau
 Illinois Department of Revenue
 101 West Jefferson
 Springfield, Illinois 62794
 phone: (217) 782-6336

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12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which sells tangible personal property in the course of sales of service in the geographic area subject to the Regional Transportation Authority Service Occupation Tax.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 330
REGIONAL TRANSPORTATION AUTHORITY
SERVICE OCCUPATION TAX REGULATIONS

Section	
330.101	Nature of the Regional Transportation Authority Service Occupation Tax
330.105	Registration and Returns
330.110	Claims to Recover Erroneously Paid Tax
330.115	Jurisdictional Questions
330.120	Incorporation of Service Occupation Tax Regulations by Reference
330.125	Penalties, Interest and Procedures
330.130	Effective Date

AUTHORITY: Authorized by and implementing Section 4.03 of the Regional Transportation Authority Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03).

SOURCE: Adopted at 4 Ill. Reg. 28, p. 551, effective July 1, 1980; codified at 6 Ill. Reg. 9681; amended at ___ Ill. Reg. ___, effective ____.

NOTE: Capitalization denotes statutory language.

Section 330.101 Nature of the Regional Transportation Authority Service Occupation Tax

a) Authority to Impose Tax

The Board of Directors of the Regional Transportation Authority is authorized to impose tax on persons engaged in the business of making sales of service within the metropolitan region as defined in Section 1.03 of the Regional Transportation Authority Act. (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, pars. 701.03 et seq.) ~~at a The tax rate not to exceed shall be 1% 3/4% of the net selling price of~~ tangible personal property transferred as an incident to such sale of service within the County of Cook and 1/4% of the net selling price of tangible personal property transferred as an incident to such sale of service within the Counties of DuPage, Kane, Lake, McHenry and Will. This tax imposed pursuant to this subsection and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the Illinois Department of Revenue (Department).

b) Passing on the Tax

Suppliers of service are required to collect the Regional

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Transportation Authority Service Occupation Tax (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, par. 704.03), (when applicable), from ~~purchasing service except when they are appropriately assume the responsibility for self-assessing the tax under Subpart H of~~ purchasers of service in conformance with the requirements of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140). The legal incidence of the Regional Transportation Authority Service Occupation Tax is on the serviceman. Nevertheless, the General Assembly has authorized persons subject to this tax to reimburse themselves for their serviceman's Regional Transportation Authority Service Occupation Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.31 et seq.), pursuant to such bracket schedules as the Department may have prescribed. (See 86 Ill. Adm. Code 150, Table A)

c) Exclusion from "Cost Prices"

Any amount added by a supplier serviceman to the net selling price of tangible personal property sold to a serviceman for retransfer as an incident to service because of Regional Transportation Authority Service Occupation Tax, or because of the Illinois Service Occupation Tax (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.101 et seq.), and reimbursing amounts collected pursuant to Home Rule County Service Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 34, par. 499-02 5-1007), and Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 24, par. 8-11-5), and Non-Home Rule Municipal Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.4) and collected from the purchasing serviceman, shall not be regarded as a part of the net selling prices which are subject to such Regional Transportation Authority Service Occupation Tax.

(Source: Amended at ___ Ill. Reg. ___ effective ____)

Section 330.105 Registration and Returns

- a) A serviceman's registration under the Service Occupation Tax Act or the Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.) is sufficient for the purposes of Section 4.03(f) of the Regional Transportation Authority Act. No special registration for Regional Transportation Authority Service Occupation Tax is required.

- b) Every taxpayer must file a return each month for each county to which he owes Regional Transportation Authority Service Occupation

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tax. However, the information required for the Regional Transportation Authority Service Occupation Taxes may be furnished on the taxpayer's Service Occupation Tax return in the additional space that is provided on that form for reporting Regional Transportation Authority Service Occupation Tax information.

- c) The provisions of Subpart-B of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140) not inconsistent with Regional Transportation Authority Service Occupation Tax or with this Regulation Part are herein incorporated by reference and made a part of this Regulation Part.

(Source: Amended at _____ Ill. Reg. _____ effective _____)

Section 330.110 Claims to Recover Erroneously Paid Tax

- a) Incorporation by Reference

In general, the provisions of Subpart N of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140) shall apply.

- b) Separate Claim Required for Each Tax Claims for Multiple Taxes

If the claimant files a claim for same State, same County and some Multiple Service Occupation Tax and some Regional Transportation Authority Service Occupation Tax paid erroneously as to the same transactions, the claims will be audited, heard or otherwise processed together whenever practicable. However, separate credit memoranda will be issued if such claims are approved.

- e) Use of Credit Memoranda

The State Service Occupation Tax credit memorandum may be used by the claimant or his authorized assignee only to pay State Service Occupation Tax, State Service Use Tax, State Retailers' Occupation Tax or State Use Tax and may not be used to pay any Regional Transportation Authority tax liability. Any given credit memorandum for the erroneous payment of Regional Transportation Authority Service Occupation Tax may be used by the claimant or his authorized assignee only to pay further Regional Transportation Authority Service Occupation or Regional Transportation Authority Retailers' Occupation Tax due.

- d) Prohibition Against Unjust Barterment

A claim for a Regional Transportation Authority Service Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such Regional Transportation

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Authority Service Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount and (in the latter event) that such vendee did not shift the burden of such amount to his customer or has unconditionally repaid such amount to his customer. The incorporation of Section 17 of the Service Occupation Tax Act into Section 4.03(f) of the Regional Transportation Authority Act by reference carries with it the principle against unjust enrichment provided for with respect to the Service Occupation Tax when a claim for credit of that kind of tax is disposed of in accordance with Section 17 of the Service Occupation Tax Act.

- e) Refunds

The Department shall award the claimant a refund unless the claimant requests in writing that a credit memorandum be issued. Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department will notify the Comptroller, who will cause the warrant to be drawn for the amount specified, and to the person named in such notification from the Department. Such refund shall be paid by the State Treasurer out of the Regional Transportation Authority tax fund.

If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by the claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 330.115 Jurisdictional Questions

- a) If the Service Occupation Tax is collected on the transaction by the supplier from the purchasing serviceman for remittance to the Department by such supplier, the supplier shall also collect and remit Regional Transportation Authority Service Occupation Tax on the transaction if the supplier's place of business is located in the metropolitan region and such Regional Transportation Authority Service Occupation Tax rate shall be determined by the supplier's county.

- b) If the Service Occupation Tax on a transaction is being remitted directly to the Department by the serviceman rather than by a supplier, the serviceman shall also pay Regional Transportation Authority Service Occupation Tax to the Department on the same trans

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action if such serviceman's place of business is located in the metropolitan region. This is true whether the serviceman bought the property in Illinois or outside Illinois.

- e) ~~When the Regional Transportation Authority Service Occupation Tax is being remitted directly to the Department by the serviceman, the Regional Transportation Authority Service Occupation Tax rate shall be determined by the serviceman's county.~~

(Source: Amended at Ill. Reg. _____, effective _____)

Section 330.120 Incorporation of the Service Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Service Occupation Tax Regulations (86 Ill. Adm. Code 140), ~~whether characterized as Rules, Articles or by some other designation~~, which are now in effect or which may hereafter be amended or promulgated, except Service Occupation Tax Subpart A as it pertains to rate, Subpart B as it pertains to the deduction for collecting tax, Subpart N as it pertains to the use of a credit memorandum to discharge State or Municipal tax liability, are incorporated herein by reference and made a part hereof.

(Source: Amended at Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Regional Transportation Authority Use Tax Regulations

- 2) Code Citation: 86 Ill. Adm. Code 340

- 3) Section Numbers:
340.101
340.105
340.110
Proposed Action:
Amendment
Amendment
Amendment

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03

- 5) A Complete Description of the Subjects and Issues Involved: This rule-making modifies Section 340.101 to change the rate of tax to conform to current law (P.A. 85-1135). Non-substantive amendments to update statutory citations and conform the rules to the requirements of the Secretary of State have also been proposed.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? Yes X No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

- 12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990

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- B) Types of small businesses affected: Any small business which purchases any item of tangible personal property titled or registered with an agency of this state's government for use in the Regional Transportation Authority metropolitan region.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping requirements applicable to other users of tangible personal property titled or registered with an agency of this State's government.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 340

REGIONAL TRANSPORTATION AUTHORITY USE TAX REGULATIONS

Section	Nature and Rate of the Tax
340.101	Items Covered
340.110	Incorporation of Use Tax Regulations by Reference
340.115	Penalties, Interest and Procedures
340.120	Effective Date

AUTHORITY: Authorized by and implementing Section 4.03 of the Regional Transportation Authority Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03).

SOURCE: Adopted at 4 Ill. Reg. 28, p. 539, effective July 1, 1980; codified at 6 Ill. Reg. 9681; amended at _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 340.101 Nature and Rate of the Tax

If a Regional Transportation Authority Retailers' Occupation Tax is imposed, THE BOARD OF DIRECTORS OF THE REGIONAL TRANSPORTATION AUTHORITY MAY IMPOSE A TAX UPON THE PRIVILEGE OF USING, IN THE METROPOLITAN REGION, ANY ITEM OF TANGIBLE PERSONAL PROPERTY WHICH IS PURCHASED OUTSIDE THE METROPOLITAN REGION AT RETAIL FROM A RETAILER, AND WHICH IS TITLED OR REGISTERED WITH AN AGENCY OF THIS STATE'S GOVERNMENT, AT A RATE ~~NOT TO EXCEED~~ 1/4% OF THE SELLING PRICE OF SUCH TANGIBLE PERSONAL PROPERTY WITHIN THE COUNTIES OF DUPAGE, KANE, LAKE, MCHEMERY AND WILL, AS "SELLING PRICE" IS DEFINED IN THE "USE TAX ACT" (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.13 et seq.), APPROVED JULY 14, 1955, AS NOW OR HEREAFTER AMENDED. ~~411-Rev. Stat. 1979, ch. 120, par. 439.2-2~~ SUCH TAX SHALL BE COLLECTED FROM PERSONS WHOSE ILLINOIS ADDRESS FOR TITLING OR REGISTRATION PURPOSES IS GIVEN AS BEING IN THE METROPOLITAN REGION. SUCH TAX SHALL BE COLLECTED BY THE DEPARTMENT OF REVENUE FOR THE REGIONAL TRANSPORTATION AUTHORITY. SUCH TAX MUST BE PAID TO THE STATE, OR AN EXEMPTION DETERMINATION MUST BE OBTAINED FROM THE DEPARTMENT OF REVENUE BEFORE THE TITLE OR CERTIFICATE OF REGISTRATION FOR THE PROPERTY MAY BE ISSUED. THE TAX OR PROOF OF EXEMPTION MAY BE TRANSMITTED TO THE DEPARTMENT BY WAY OF THE STATE AGENCY WITH WHICH, OR STATE OFFICER WITH WHOM, THE TANGIBLE PERSONAL PROPERTY MUST BE TITLED OR REGISTERED IF THE DEPARTMENT AND SUCH AGENCY OR STATE OFFICER DETERMINE THAT THIS PROCEDURE WILL EXPEDITE THE PROCESSING OF APPLICATIONS FOR TITLE OR REGISTRATION. (Ill. Rev. Stat. 1979 1989, ch. 111 2/3, par. 704.03.)

(Source: Amended at _____ Ill. Reg. _____ effective _____)

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Section 340.105

Items Covered

Items which are titled or registered with the State are motor vehicles, aircraft, ~~motorboats, sailboats, exceeding 12 feet in length~~ watercraft, snowmobiles, and implements of husbandry and special mobile equipment for which the owner decides to apply for an optional title. For the purposes of this Regulation Part:

- a)
- The term "motor vehicle" includes passenger cars, trucks, buses, motorcycles and any kind of vehicle which is required to be titled under the Illinois Vehicle Code (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, pars. 1-101 et seq.), (including house trailers for which a display certificate of title is required).
- b)
- The term "implement of husbandry" means:
EVERY VEHICLE DESIGNED AND ADAPTED EXCLUSIVELY FOR AGRICULTURAL, HORTICULTURAL, OR LIVESTOCK RAISING OPERATIONS, INCLUDING FARM WAGONS, WAGON TRAILERS OR LIKE VEHICLES USED IN CONNECTION THEREWITH, OR FOR LIFTING OR CARRYING AN IMPLEMENT OF HUSBANDRY PROVIDED THAT NO FARM WAGON, WAGON TRAILER OR LIKE VEHICLE HAVING A CAPACITY OF MORE THAN 400 BUSHELS OR A GROSS WEIGHT OF MORE THAN 36,000 POUNDS, SHALL BE INCLUDED HEREUNDER. (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, par. 1-130.)

- c)
- The term "special mobile equipment" means:

EVERY VEHICLE NOT DESIGNED OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS OR PROPERTY AND ONLY INCIDENTALLY OPERATED OR MOVED OVER A HIGHWAY, INCLUDING BUT NOT LIMITED TO: STREET SWEEPERS, DITCH DIGGING APPARATUS, WELL BORING APPARATUS AND ROAD CONSTRUCTION AND MAINTENANCE MACHINERY SUCH AS ASPHALT SPREADERS, BITUMINOUS MIXERS, BUCKET LOADERS, TRACTORS OTHER THAN TRUCK TRACTORS, ~~TRIGGERS~~ DITCHERS, LEVELLING GRADERS, FINISHING MACHINES, MOTOR GRADERS, ROAD ROLLERS, SCARIFIERS, EARTH MOVING CARRYALLS AND SCRAPERS, POWER SHOVELS AND DRAG LINES, AND SELF-PROPELLED CRANES AND EARTH MOVING EQUIPMENT. THE TERM DOES NOT INCLUDE HOUSE TRAILERS, DUMP TRUCKS, TRUCK MOUNTED TRANSIT MIXERS, CRANES OR SHOVELS, OR OTHER VEHICLES DESIGNED FOR THE TRANSPORTATION OF PERSONS OR PROPERTY TO WHICH MACHINERY HAS BEEN ATTACHED. (Ill. Rev. Stat. 1979 1989, ch. 95 1/2, par. 1-191.)

- d)
- WATERCRAFT MEANS EVERY DESCRIPTION OF WATERCRAFT USED OR CAPABLE OF BEING USED AS A MEANS OF TRANSPORTATION ON WATER, EXCEPT A SEAPLANE ON THE WATER, INNERTUBE, AIR MATTRESS OR SIMILAR DEVICE, AND BOATS USED FOR CONCESSION RIDES IN ARTIFICIAL BODIES OF WATER DESIGNED AND USED EXCLUSIVELY FOR SUCH CONCESSIONS. Section 1-2 of the Boat Registration and Safety Act of the Illinois Vehicle Code (Ill. Rev.

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Stat. 1989, ch. 95 1/2, par. 311-2). EVERY WATERCRAFT OTHER THAN SAILBOARDS, ON WATERS WITHIN THE JURISDICTION OF THIS STATE, SHALL BE NUMBERED. (Section 3-1 of the Boat Registration and Safety Act.)

(Source: Amended at Ill. Reg. effective)

Section 340.110

Incorporation of Use Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Use Tax Regulations (86 Ill. Adm. Code 150), ~~(whether characterized as Rules Articles or by some other designation), which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to subject matter and rate; Subpart G as it pertains to registration of out-of-State retailers; Subpart H as it pertains to deduction for-creditting tax; Subpart M as it pertains to retailers and the use of a credit memorandum to discharge State of Municipal tax liabilities, are incorporated herein by reference and made a part hereof.~~

(Source: Amended at Ill. Reg. effective)

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1) Heading of the Part: Service Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 140

3) Section Numbers:
140.101

Proposed Action:
Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, par. 439.102

5) A Complete Description of the Subjects and Issues Involved: This rulemaking modifies the Department's rules for consistency with two recent Public Acts. Section 140.101 is amended to provide per P.A. 86-1033 that in the case of a serviceman transferring prescription drugs in which the cost price of tangible personal property is less than 75% of the total gross receipts from the transaction, the transaction is not subject to the Service Occupation Tax. Section 140.101 is also amended to reflect that per P.A. 86-1306 the percentage threshold for the Service Occupation Tax for servicemen engaged in graphic arts production is also raised to 75% from 35%.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation
140.301 Amendment 11/2/90--14 Ill. Reg. 17916

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

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12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990

B) Types of small businesses affected: Any small business engaged in the service of transferring prescription drugs or engaged in graphic arts production.

C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.

D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendment(s) begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 140
SERVICE OCCUPATION TAX

SUBPART A: NATURE OF TAX

- Section 140.101 Basis and Rate of the Service Occupation Tax
- 140.105 Registration of Servicemen
- 140.110 presumption that Tax Applies **(Repealed)**
- 140.115 Occasional Sales to Servicemen by Suppliers **(Repealed)**
- 140.120 Meaning of Serviceman
- 140.125 Examples of Nontaxability
- 140.126 Exemption of Food, Drugs and Medical Appliances
- 140.130 Suppliers of Printers **(Repealed)**
- 140.135 Sales of Drugs and Related Items, to or by Pharmacists
- 140.140 Other Examples of Taxable Transactions
- 140.145 Multi-Service Situations

SUBPART B: DEFINITIONS

- Section 140.201 General Definitions
- Section 140.301 Cost Price
- 140.305 Refunds by Supplier or Serviceman

SUBPART C: BASE OF THE TAX

SUBPART D: TAX RETURNS

- Section 140.401 Monthly Returns When Due--Contents of Returns
- 140.405 Annual Tax Returns
- 140.410 Final Return
- 140.415 Taxpayers' Duty to Obtain Form
- 140.420 Annual Information Returns by Servicemen
- 140.425 Filing of Returns for Serviceman "Suppliers" by their Suppliers Under Certain Circumstances
- 140.430 Incorporation by Reference

SUBPART E: INTERSTATE COMMERCE

- Section 140.501 Sales of Service Involving Property Originating in Illinois
- 140.505 Sales of Service Involving Property Originating Outside of Illinois **(Repealed)**

SUBPART F: REGISTRATION UNDER THE SERVICE OCCUPATION TAX ACT

- Section 140.601 General Information

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SUBPART G: BOOKS AND RECORDS

- Section 140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

- Section 140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

- Section 140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

- Section 140.1001 Payment of Tax to the Supplier
- 140.1005 Receipt to be Obtained for Tax Payments
- 140.1010 Payment of Tax Directly to the Department
- 140.1015 Itemization of the Tax by Suppliers
- 140.1020 Use of Bracket Chart
- 140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING--MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

- Section 140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

- Section 140.1201 When Lessee of Premises May File Return for Leased Department
- 140.1205 When Lessor of Premises Should File Return for Leased Department
- 140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

- Section 140.1301 When Purpose of Serviceman's Purchase is Known **(Repealed)**
- 140.1305 When Purpose of Serviceman's Purchase is Unknown
- 140.1310 Blanket Percentage Exemption Certificates **(Repealed)**

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

- Section 140.1401 Claims for Credit--Limitations--Procedure
- 140.1405 Disposition of Credit Memoranda by Holders Thereof
- 140.1410 Refunds
- 140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

- Section 140.1501 Procedures

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SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section 140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section 140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act (Ill. Rev. Stat. 1987, ch. 120, pars. 439.101-439.121 et seq.) and authorized by Section 39b30 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 39b30).

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at ____ Ill. Reg. _____, effective ____.

NOTE: Capitalization denotes statutory language.

SUBPART A: NATURE OF TAX

Section 140.101 Basis and Rate of the Service Occupation Tax

- a) The Service Occupation Tax Act (the Act), Ill. Rev. Stat. 1987, ch. 120, pars. 439.101-439.121 et seq., imposes a tax upon persons engaged in this State in the business of making sales of service. These persons are referred to hereinafter as servicemen.
- b) The rate of the tax after September 30, 1969, is 4%, and on and after January 1, 1984, and prior to January 1, 1990, is 5% of the serviceman's cost price of tangible personal property transferred by the serviceman as an incident to a sale of service. Except as provided in subsection (g), on and after January 1, 1990, the rate of tax is 6.25% of the selling price of tangible personal property transferred by the serviceman.
- c) On and after January 1, 1984, and prior to January 1, 1990, food for human consumption which is to be consumed off the premises where it

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is sold (other than alcoholic beverages and food which has been prepared for immediate consumption), and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use, will be taxed at the rate of 0%. On and after January 1, 1990, the rate of tax will be 1%. Food does not include soft drinks.

- d) The date of the sale of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman transfers as an incident to service.
- e) **EFFECTIVE JANUARY 1, 1990, FOR THE PURPOSE OF DETERMINING THE TAX BASE, SELLING PRICE SHALL IN NO EVENT BE LESS THAN THE COST PRICE TO THE SERVICEMAN OF THE TANGIBLE PERSONAL PROPERTY TRANSFERRED. THE SELLING PRICE OF EACH ITEM OF TANGIBLE PERSONAL PROPERTY TRANSFERRED INCIDENT TO A SALE OF SERVICE MAY BE STATED AS A DISTINCT ITEM BY THE SERVICEMAN TO THE SERVICE CUSTOMER AND THE TAX IMPOSED BY THIS ACT SHALL WHEN COLLECTED BE STATED AS A DISTINCT ITEM SEPARATE AND APART FROM THE SELLING PRICE OF THE TANGIBLE PERSONAL PROPERTY. IF THE SELLING PRICE OF EACH ITEM OF TANGIBLE PERSONAL PROPERTY TRANSFERRED INCIDENT TO A SALE OF SERVICE IS NOT STATED AS A SEPARATE ITEM ON THE SERVICEMAN'S BILLING TO THE SERVICE CUSTOMER, THEN THE TAX IMPOSED BY THIS ACT SHALL BE BASED ON 50% OF THE SERVICEMAN'S ENTIRE BILLING TO THE SERVICE CUSTOMER (Section 3 of the Act), but in no event shall this amount be less than the cost price to the serviceman of the tangible personal property so transferred.**

- f) A serviceman making a sale of service in which the cost price of tangible personal property transferred as an incident to the sale of service is less than 35% (75% in the case of servicemen transferring prescription drugs, or servicemen engaged in graphic arts production as the term graphic arts production is defined in Section 2 of the Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 441)) of the total gross receipts from the transaction is not subject to Service Occupation Tax. However, the purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax and Use Tax and should be paid by the serviceman to his supplier or self-assessed and paid to the Department. A serviceman may determine the 35% threshold as follows:
 - 1) Transaction-by-transaction method. A service transaction means all sales of services set forth on a single invoice. For example, in a car repair transaction, several different services may be billed on one invoice. All such services shall be grouped and considered together to determine if the cost of goods is 35% or more of that total transaction amount.

Example:

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	COST PRICE	SELLING PRICE	LABOR CHARGE	TOTAL SERVICE CHARGE
1. Replace exhaust, pipes, muffler, clamps	\$ 60.00	\$100.00	\$50.00	\$150.00
2. Fix brakes:				
A) turn rotors,			40.00	40.00
B) pads, master cylinder, Fluid	150.00	250.00	80.00	330.00
3. Oil change, filter five quarts of oil	4.00 \$214.00	8.00 \$358.00	10.00 \$180.00	18.00 \$538.00

Therefore, \$214.00 cost of parts = 39% of the \$538.00 total transaction amount. Service Occupation Tax (SOT) is due on the \$358.00 selling price of the parts when that amount is separately stated on the bill apart from the \$180.00 charge for labor. If the selling price of the parts is not specifically stated (\$358.00) on the invoice, one-half of the total transaction amount (\$538.00 divided by 2 = \$269.00) is subject to SOT. (The cost price of the parts need not be stated on the customer's invoice, but is shown here for illustrative purposes only.) If the cost price of the parts was less than 35% of the total service charge, the serviceman would self-assess Use Tax on the purchase price (\$214.00) of the parts if tax was not previously paid to the supplier. If tax was paid to the supplier, the serviceman is not required to collect tax as a specific item on the invoice to the customer. Retail sales subject to Retailers' Occupation Tax, such as "over-the-counter" sales of parts, must be excluded when determining the 35% threshold.

2) Annual aggregate method. A serviceman may elect to determine if he is under the 35% cost of materials to total transaction selling price ratio by examining the total annual aggregate cost of parts transferred in the course of providing service and the total annual aggregate receipts from the sales of service, including sales of service in which no property is transferred. The cost of materials sold at retail or removed from inventory for use, or incorporated into repairs of real estate, must be excluded when determining the above percentage threshold. The annual aggregate method will be determined on

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the basis of the taxpayer's fiscal year. The taxpayer may elect to use either method to determine the cost of materials to total transaction selling price ratio.

g) WHEN A SERVICEMAN CONTRACTS TO DESIGN, DEVELOP AND PRODUCT SPECIAL ORDER MACHINERY OR EQUIPMENT, THE TAX IMPOSED BY THIS ACT SHALL BE BASED ON THE SERVICEMAN'S COST PRICE OF THE TANGIBLE PERSONAL PROPERTY (TRANSFERRED) INCIDENT TO THE COMPLETION OF THE CONTRACT. (Section 3 of the Act).

h) Taxpayers who are registered may purchase all tangible personal property for retransfer by providing their suppliers with valid resale certificates even if in some transactions the cost price of the tangible personal property will be less than 35% of the total gross receipts from the transaction. If the serviceman paid tax to his supplier in the expectation that the cost of parts would be less than 35% of the total transaction selling price, but the actual percentage was more than 35%, the serviceman would be able to take credit for the tax paid to the supplier but would be liable for tax on the selling price of the parts, if stated, or on 50% of the total transaction selling price. In the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, replace the references to 35% in this subsection with 75%. The serviceman may also be liable for penalties due to a failure to file returns.

i) Examples:

	Cost	Selling Price	Gross Receipts	Tax Base
Not Separately Stated	\$50.00	-0-	\$62.50	\$50.00 (Base is never less than cost price.)
Separately Stated	\$12.00	\$15.00	\$25.00	\$15.00 (\$elling price)
Not Separately Stated	\$12.00	-0-	\$30.00	\$15.00 (1/2 of gross receipts)
Separately Stated	\$12.00	\$10.00	\$26.00	\$12.00 (Cost/ selling price)
	\$ 2.00	\$ 5.00	\$10.00	Not subject to Service Occupation Tax. Subject to Retailers'

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Occupation or Use
Tax--35%
\$2.00)

(Source: Amended at Ill. Reg. _____, effective _____)

- 1) Heading of Part: Service Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 160
- 3) Section Numbers:
160.101
160.105
160.115
160.135
160.150
160.155
Proposed Action:
Amendment
Amendment
Amendment
Amendment
Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, pars. 439.31 et seq.
- 5) A Complete Description of the Subjects and Issues Involved: This rule-making implements the Service Use Tax aspects of tax reform. Section 160.101 is amended to change the rate of the tax to conform to current law. (P.A. 85-1135) Section 160.115 is amended to provide, consistent with law, that the Service Use Tax is based on the selling price of the tangible personal property transferred incident to the sale of service if stated separately on the invoice from the serviceman, or if not separately stated, on 50% of the entire billing from the serviceman. In addition, non-substantive changes have been made to update statutory citations and conform the rules to the requirements of the Secretary of State.

- 6) Will this proposed rule replace an emergency rule currently in effect:
No
- 7) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part: No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Mr. R. Dale Yung
Administrator
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

- A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: Any small business which obtains tangible personal property in the course of a purchase of service.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 160
SERVICE USE TAX

Section:

- 160.101 Nature of the Tax
160.105 Definitions
160.110 Kinds of Uses And Users Not Taxed
160.115 Collection Of The Service Use Tax By Servicemen
160.120 Receipt For The Tax
160.125 Special Information For Taxable Users
160.130 Registration Of Servicemen
160.135 Serviceman's Return
160.140 Penalties, Interest And Procedures
160.145 Incorporation Of Illinois Service Occupation Tax Regulations By Reference
160.150 Claims To Recover Erroneously Paid Tax--Limitations--Procedures
160.155 Disposition Of Credit Memoranda By Holders Thereof
160.160 Refunds
160.165 Interest

AUTHORITY: Implementing the Service Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 439.31 et seq.) and authorized by Section 39b30 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b30).

SOURCE: Adopted May 21, 1962; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 8619, effective June 5, 1984; amended at 11 Ill. Reg. 5322, effective March 17, 1987; amended at 11 Ill. Reg. 9963, effective May 8, 1987; amended at 13 Ill. Reg. 9399, effective June 6, 1989; amended at ___ Ill. Reg. ___, effective ____.

NOTE: Capitalization denotes statutory language.

Section 160.101 Nature of the Tax

- a) The Service Use Tax is a privilege tax imposed on the privilege of using, in this State, tangible personal property that is received anywhere as an incident to a purchase of service from a serviceman, as "serviceman" is defined in the Act. However, if the serviceman would not be taxable under the Service Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.101 et seq.) despite all elements of the sale of service occurring in Illinois, then the tax imposed by the Service Use Tax Act does not apply to the use of such property in this State.

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- b) Any evidence that property was sold by any person for delivery to a person residing in or engaged in business in this State shall be prima facie evidence that such property was sold for use in this State.
- c) The rate of the Service Use Tax before ~~September 17, 1968~~ September 17, 1968 is ~~3 1/2%~~ 3 1/2% and ~~from September 17, 1968, through September 30, 1969, is 4 1/4%~~ and after September 30, 1969, is 4% on and after January 1, 1990, is 6.25% of the serviceman's ~~cost~~ net selling price of the tangible personal property transferred by the serviceman as an incident to a sale of service.
- d) If the property that is purchased from a serviceman as an incident to a sale of service is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is nevertheless taxable under the Service Use Tax Act, the cost price on which the tax is computed shall be reduced by an amount which represents a reasonable allowance for depreciation for the period of such prior out-of-State use. ~~Effective January 17, 1968, a~~ A "reasonable allowance for depreciation" is deemed by the Department to be the amount of depreciation determined by use of the straight line method of depreciation.
- e) The date of the purchase of service is deemed to be the date of the delivery, to the user, of the tangible personal property which the serviceman transfers as an incident to a sale of service.
- f) The Service Use Tax Act complements the Service Occupation Tax Act. That is why the Service Use Tax is restricted to cases in which the property is purchased from a serviceman as an incident to a sale of service.
- g) If the serviceman is required or authorized to collect the Service Use Tax, the purchaser must pay the tax to the serviceman. The serviceman must then remit the Service Use Tax to the Department after reducing the amount of that tax by the amount of Service Occupation tax which he is required to pay and does pay, with respect to that property, either to a supplier or to the Department. If the purchaser receives the property as an incident to a purchase of service from a serviceman but does not pay the Service Use Tax to such serviceman, the purchaser must pay the Service Use Tax directly to the Department.

(Source: Amended at Ill. Reg., effective)

Section 160.105 Definitions

- a) For definitions of terms other than "Use", "Purchased from a

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- "Serviceman", "purchaser", "Selling Price", and "Serviceman maintaining a place of business in this State", see Section 140.201 of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140).
- b) "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property,
- 1) which is sold in the regular course of business or
- 2) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.
- c) "Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.
- d) "Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.
- e) "Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act.
- f) "Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State; SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY

NOTICE OF PROPOSED AMENDMENTS

- b) If the serviceman does collect the Service Use Tax as a separate item, he shall use the same tax collection brackets as those prescribed in Subpart-B Section 150. Table A of the Use Tax Regulations with respect to the 46.25% rate when it is impracticable to collect exactly 46.25% of the cost price.

(Source: Amended at Ill. Reg. , effective)

Section 160.135 Serviceman's Return

- a) Every serviceman required or authorized to collect the Service Use Tax must file a return each month by the last day of the month covering the preceding calendar month except when the serviceman is authorized to file tax returns on a quarterly or annual basis as hereinafter provided. The Department has combined the Service Use Tax return form, the Service Occupation Tax return form and the Use Tax return with the Retailers' Occupation Tax return form.

- b) Where the sale of service is made under a conditional sales contract, or under any other form of sale wherein the payment of the principal sum, or a part thereof, is extended beyond the close of the return period for which the return is filed, the serviceman, in collecting the tax, may collect, for each return period, only the tax applicable to that part of the cost selling price actually received during such return period.

- c) In his regular return, each serviceman shall also include the total amount of Service Use Tax due upon the cost selling price of tangible personal property purchased transferred by him as an incident to a sale of service by a serviceman, but as to which such tax was not collected by the vendor from the serviceman filing such return. Such serviceman shall remit the amount of such tax to the Department when filing such return.

- d) In general, the provisions of Subpart D of the Service Occupation Tax Regulations (86 Ill. Adm. Code 140), (including the provisions pertaining to quarterly and annual tax returns, but not the provisions pertaining to annual information returns) shall apply to returns of servicemen under the Service Use Tax Act.

- e) The serviceman who collects the Service Use Tax from his purchaser and who remits, as Service Use Tax, the amount so collected is allowed to deduct the 2 1.75% collection allowance or \$5.00 per calendar year, whichever is greater, in the same manner as the supplier serviceman is allowed to do under Subpart D of the Service Occupation Tax Regulations. Where a purchaser from a serviceman, however, does not pay the Service Use Tax to the serviceman, but pays it directly to the Department, that purchaser is not allowed to

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MEANS OF A TELECOMMUNICATION OR TELEVISION SHOPPING SYSTEM (WHICH UTILIZES TOLL FREE NUMBERS) WHICH IS INTENDED BY THE RETAILER TO BE BROADCAST BY CABLE TELEVISION OR OTHER MEANS OF BROADCASTING, TO CONSUMERS LOCATED IN THIS STATE; PURSUANT TO A CONTRACT WITH A BROADCASTER OR PUBLISHER LOCATED IN THIS STATE, SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MEANS OF ADVERTISING WHICH IS DISSEMINATED PRIMARILY TO CONSUMERS LOCATED IN THIS STATE AND ONLY SECONDARILY TO BORDERING JURISDICTIONS; SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MAIL IF THE SOLICITATIONS ARE SUBSTANTIAL AND RECURRING AND IF THE RETAILER BENEFITS FROM ANY BANKING, FINANCING, DEBT COLLECTION, TELECOMMUNICATION, OR MARKETING ACTIVITIES OCCURRING IN THIS STATE OR BENEFITS FROM THE LOCATION IN THIS STATE OF AUTHORIZED INSTALLATION, SERVICING, OR REPAIR FACILITIES; BEING OWNED OR CONTROLLED BY THE SAME INTERESTS WHICH OWN OR CONTROL ANY RETAILER ENGAGING IN BUSINESS IN THE SAME OR SIMILAR LINE OF BUSINESS IN THIS STATE; HAVING A FRANCHISEE OR LICENSEE OPERATING UNDER ITS TRADE NAME IF THE FRANCHISEE OR LICENSEE IS REQUIRED TO COLLECT THE TAX UNDER THIS SECTION; PURSUANT TO A CONTRACT WITH A CABLE TELEVISION OPERATOR LOCATED IN THIS STATE, SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MEANS OF ADVERTISING WHICH IS TRANSMITTED OR DISTRIBUTED OVER A CABLE TELEVISION SYSTEM IN THIS STATE, or engaging in activities in Illinois which would, in the serviceman's state of domicile in which the retail business engaging in such activities is located, constitute maintaining a place of business in that state (Ill. Rev. Stat. 1985 1989, ch. 120, par. 439.32). For the purpose of determining such state of domicile location, the Department will look to the place at which the selling activity takes place. The seller's acceptance of the purchase order or other contracting action in making the sale is the single most important factor in determining selling location.

(Source: Amended at Ill. Reg. , effective)

Section 160.115 Collection Of the Service Use Tax By Servicemen

- a) Servicemen who come within the definition of a "Serviceman maintaining a place of business in this State" (as set out in Section 160.105 of this Part and in Section 2 of the Service Use Tax Act) and other servicemen who are authorized to collect the Service Use Tax, shall collect the tax from users. A serviceman may do so by stating the tax as a distinct item separate and apart from the service, and he shall do so when requested by the buyer. The Service Use Tax shall be based on the selling price of the tangible personal property transferred incident to the sale of service if stated separately on the invoice from the serviceman. If not stated separately, then the tax will be imposed on 50% of the entire billing from the serviceman.

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deduct any amount as a collection allowance.

(Source: Amended at ___ Ill. Reg. ___, effective ___)

Section 160.150 Claims To Recover Erroneously Paid Tax—Limitations—Procedures

a) Limitations Upon Claims

1) If it shall appear that an amount of tax or penalty or interest has been paid in error under the Service Use Tax Act to the Department by a purchaser, as distinguished from the serviceman, whether such amount be paid through a mistake of fact or an error of law, such purchaser may file a claim for credit with the Department.

2) If it shall appear that an amount of tax or penalty or interest has been paid in error to the Department under the Service Use Tax Act by a serviceman who is required or authorized to collect and remit the Service Use Tax, whether such amount be paid through a mistake of fact or an error of law, such serviceman may file a claim for credit with the Department, provided that no credit shall be allowed for any amount paid by any such serviceman unless it shall appear that he bore the burden of such amount and did not shift the burden thereof to anyone else (as in the case of a duplicated tax payment which the serviceman made to the Department and did not collect from anyone else), or unless it shall appear that he or his legal representative has unconditionally repaid such amount to his vendee:

- A) Who bore the burden thereof and has not shifted such burden directly or indirectly in any manner whatsoever;
- B) Who, if he has shifted such burden, has repaid unconditionally such amount to his own vendee, and
- C) Who is not entitled to receive any reimbursement therefor from any other source than from his vendor, nor to be relieved of such burden in any other manner whatsoever.

3) If it shall appear that an amount of tax has been paid in error under the Service Use Tax Act by the purchaser to a serviceman, who retained such tax as reimbursement for his tax liability on the same sale under the Service Occupation Tax Act, and who remitted the amount involved to the Department under the Service Occupation Tax Act, whether such amount be paid through a mistake of fact or an error of law, the procedure for recovering such tax shall be that prescribed in Sections 17, 18, 19

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and 20 of the Service Occupation Tax Act.

4) As to any claim for credit filed with the Department on and after January 1 but on or before June 30 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Service Use Tax Act) more than 3 years prior to such January 1 shall be credited, and as to any such claim filed on and after July 1 but on or before December 31 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Service Use Tax Act) more than 3 years prior to such July 1 shall be credited.

5) No claim shall be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court.

b) Filing Of Claims

1) Claims for credit shall be prepared and filed upon forms provided by the Department. Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

2) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department. Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department. Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.

3) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the

NOTICE OF PROPOSED AMENDMENTS

Department of instructions to that effect. If there are no unpaid established assessments or unpaid admitted tax liabilities, or unpaid penalties, or unpaid amounts of interest, due from the claimant-assignor, and if there are no pending proceedings as herein outlined, pending against the claimant-assignor, and if the contemplated assignee is a person who is subject to the Service Occupation Tax Act, the Service Use Tax Act, the Retailers' Occupation Tax Act, Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, the ~~Municipal Use Tax Act~~, the Home Rule Municipal Service Occupation Tax Act, the Home Rule Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, the ~~County Supplemental Use Tax Act~~, the Home Rule County Service Occupation Tax Act, the ~~County Supplemental Service Occupation Tax Act~~, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, the request for leave to assign shall be approved. The original credit memorandum shall be cancelled, and a new credit memorandum shall be issued to the assignee in the amount shown on the cancelled memorandum.

33) However, before a credit is issued to the assignee, the amount of such credit shall be applied, to the extent that may be necessary, in liquidation of any established unpaid assessment which has been issued to such assignee, or in liquidation of any unpaid penalty, or amount of interest due from such assignee, or in liquidation of any unpaid admitted liability due from the assignee under the Service Occupation Tax Act, the Service Use Tax Act, the Retailers' Occupation Tax Act, the Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, the ~~Municipal Use Tax Act~~, the Home Rule Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, ~~THE COUNTY SUPPLEMENTARY RETAILERS' OCCUPATION TAX ACT~~, the Home Rule County Service Occupation Tax Act, ~~THE COUNTY SUPPLEMENTARY SERVICES OCCUPATION TAX ACT~~, the Home Rule County ~~SUPPLEMENTARY USE TAX ACT~~, Section 4 of the Water Commission Act of 1985, subsections (b), (c) and (d) of Section 5.01 of the Local Mass Transit District Act, or subsections (e), (f) and (g) of Section 4.03 of the Regional Transportation Authority Act, and a credit memorandum for the balance of the credit, if any, shall then be issued to the assignee: Provided, that there is no proceeding pending

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against the assignee to establish an unpaid liability against him.

4) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded. If such proceeding results in the issuance of an assessment which becomes final under any of the said Acts, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, and any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

b) Submission of Credit Memoranda With Tax Returns

1) Credit memoranda, in the hands either of the original claimant or of his assignee, may be submitted to the Department, along with Service Occupation Tax returns or Use Tax returns, in pay-
Retailers' Occupation Tax returns or Use Tax returns, in pay-
ment of any tax liability or penalty or interest under the
Service Occupation Tax Act, the Service Use Tax Act, the
Retailers' Occupation Tax Act, the Use Tax Act, the Home Rule
Municipal Retailers' Occupation Tax Act, the Non-Home Rule
Municipal Retailers' Occupation Tax Act, the ~~Municipal Use Tax~~
~~Act~~---the Home Rule Municipal Service Occupation Tax Act, the
Non-Home Rule Municipal Service Occupation Tax Act, the Home
Rule County Retailers' Occupation Tax Act, ~~THE COUNTY~~
~~SUPPLEMENTARY-RETAILERS'-OCCUPATION-TAX-ACT~~, the Home Rule
County Service Occupation Tax Act, ~~THE COUNTY-SUPPLEMENTARY~~
~~SERVICE-OCCUPATION-TAX-ACT~~, ~~THE COUNTY-USE-TAX-ACT~~, ~~THE COUNTY~~
~~SUPPLEMENTARY-USE-TAX-ACT~~, Section 4 of the Water Commission
Act of 1985, subsections (b), (e) and (d) of Section 5.01 of
the Local Mass Transit District Act, or subsections (e), (f)
and (g) of Section 4.03 of the Regional Transportation
Authority Act, incurred by the holder of such credit memoranda.

2) If, after applying any such credit memorandum against the amount of tax shown to be due by the tax return with which the credit memorandum is submitted, there is a balance of the credit memorandum in favor of the taxpayer, the Department will cancel the credit memorandum which the taxpayer submits with his return and will issue and deliver to the taxpayer a new credit memorandum for such balance. This process will be followed until the credit, to which such taxpayer is entitled, is exhausted.

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- 3) However, any new credit memorandum, which is issued for a balance of credit due the taxpayer after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see Section 160.150(d) of this part) or when leave to assign a credit memorandum is requested (see subsection (a) of this Section).

(Source: Amended at Ill. Reg. _____, effective _____)

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- 1) Heading of Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3) Section Numbers:
- | | |
|----------|-------------------------|
| 150.101 | <u>Proposed Action:</u> |
| 150.105 | Amendment |
| 150.135 | Amendment |
| 150.201 | Amendment |
| 150.405 | Amendment |
| 150.710 | Amendment |
| 150.725 | Amendment |
| 150.905 | Amendment |
| 150.1101 | Amendment |
| 150.1310 | Amendment |
| 150.1401 | Amendment |
| 150.1405 | Amendment |

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, pars. 439.1 et seq.

- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking implements the Use Tax aspects of tax reform. It changes the rate, base and collection of tax. (P.A. 85-1135 and P.A. 86-928) In Section 150.201 the definition of "Retailer maintaining a place of business in this State" has been modified to reflect the adoption of P.A. 86-261. Other changes have been proposed to conform the rules to present law, such as amendment of Sections 150.725 and 150.905 to list the current lawful percentage deduction a retailer may take for his or her cost of collecting the tax. Other non-substantive changes have been made to update citations of statutory authority and conform the rules to the requirements of the Secretary of State.

- 6) Will this proposed rule replace an emergency rule currently in effect:
No

- 7) Does this rulemaking contain an automatic repeal date? Yes ☒ No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part: No

- 10) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands a State mandate.

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NOTICE OF PROPOSED AMENDMENTS

- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Mr. R. Dale Yung
Administrator
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-6336

- 12) Initial Regulatory Flexibility Analysis:

- A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: November 29, 1990
- B) Types of small businesses affected: A wide variety of small businesses which transfer tangible personal property in the course of business.
- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and retail filing requirements applicable to other retailers and servicemen.
- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section	Description of the Tax
150.101	Rate and Base of Tax
150.105	How To Compute Depreciation
150.110	How To Determine Effective Date
150.115	Effective Date of New Taxes
150.120	Relation of Use Tax to Retailers' Occupation Tax
150.125	Accounting for the Tax
150.130	How to Avoid Paying Tax on Use Tax Collected From the Purchaser
150.135	

SUBPART B: DEFINITIONS

Section	General Definitions
150.201	

SUBP-RT C: KINDS OF USES AND USERS NOT TAXED

Section	Cross References
150.301	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.305	Interim Use and Demonstration Exemptions
150.306	Exemptions to Avoid Multi-State Taxation
150.310	Non-resident Exemptions
150.315	Meaning of "Acquired Outside This State"
150.320	Charitable, Religious and Educational Organizations as Buyers
150.325	Governmental Bodies as Buyers
150.330	

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

Section	Collection of the Tax by Retailers From Users
150.401	Tax Collection Brackets for a 2% Rate of Tax (Repealed)
150.405	Tax Collection Brackets for a 2-1/4% Rate of Tax (Repealed)
150.410	Tax Collection Brackets for a 2-1/2% Rate of Tax (Repealed)
150.415	Tax Collection Brackets for a 2-3/4% Rate of Tax (Repealed)
150.420	Tax Collection Brackets for a 3% Rate of Tax (Repealed)
150.425	Tax Collection Brackets for a 3-1/8% Rate of Tax (Repealed)
150.430	Tax Collection Brackets for a 3-1/4% Rate of Tax (Repealed)
150.435	Tax Collection Brackets for a 3-1/2% Rate of Tax (Repealed)
150.440	Tax Collection Brackets for a 3-3/4% Rate of Tax (Repealed)
150.445	Tax Collection Brackets for a 4% Rate of Tax (Repealed)
150.450	Tax Collection Brackets for a 4-1/8% Rate of Tax (Repealed)
150.455	Tax Collection Brackets for a 4-1/4% Rate of Tax (Repealed)
150.460	Tax Collection Brackets for a 4-1/2% Rate of Tax (Repealed)
150.465	

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150.470 Tax Collection Brackets for a 4-3/4% Rate of Tax (Repealed)
 150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
 150.480 Tax Collection Brackets for a 5-1/8% Rate of Tax (Repealed)
 150.485 Tax Collection Brackets for a 5-1/4% Rate of Tax (Repealed)
 150.490 Tax Collection Brackets for a 5-1/2% Rate of Tax (Repealed)
 150.495 Tax Collection Brackets for a 5-3/4% Rate of Tax (Repealed)
 150.500 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
 150.505 Optional 1% Schedule (Repealed)
 150.510 Exact Collection of Tax Required When Practicable
 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
 150.520 Display of Tax Collection Schedule
 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

Section
 150.601 Requirements

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section
 150.701 When and Where to File a Return
 150.705 Use Tax on Items that are Titled or Registered in Illinois
 150.710 Procedure in Claiming Exemption from Use Tax
 150.715 Receipt for Tax or Proof of Exemption Must Accompany Application for Title or Registration
 150.716 Display Certificates for House Trailers
 150.720 Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax Collected by Retailer from User
 150.725 Direct Payment of Tax by User to Department on Intrastate Purchase Under Certain Circumstances
 150.730 Direct Reporting of Use Tax to Department by Registered Retailers

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

Section
 150.801 When Out-of-State Retailers Must Register and Collect Use Tax
 150.805 Voluntary Registration by Certain Out-of-State Retailers
 150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

Section
 150.901 When and Where to File
 150.905 Deduction for Collecting Tax
 150.910 Incorporation by Reference
 150.915 Itemization of Receipts from Sales and the Tax Among the Different States from Which Sales are Made into Illinois

SUBPART I: PENALTIES, INTEREST AND PROCEDURES

DEPARTMENT OF REVENUE

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Section
 150.1001 General Information

SUBPART J: TRADED-IN PROPERTY

Section
 150.1101 General Information

SUBPART K: INCORPORATION OF ILLINOIS RETAILERS' OCCUPATION TAX REGULATIONS BY REFERENCE

Section
 150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section
 150.1301 Users' Records

150.1305 Retailers' Records
 150.1310 Use of Signs to Prove Collection of Tax as a Separate Item

150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax Separately From the Selling Price
 150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
 150.1401 Claims for Credit--Limitations--Procedure

150.1405 Disposition of Credit Memoranda by Holders Thereof
 150.1410 Refunds

150.1415 Interest

TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 439.1 et seq.) and authorized by Section 39b28 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b28).

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980, amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at ___ Ill. Reg. ___, effective _____.

NOTE: Capitalization denotes statutory language.

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SUBPART A: NATURE OF THE TAX

Section 150.101 Description of the Tax

- a) The Use Tax is a privilege tax imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer, as "retailer" is defined in the Use Tax Act.
- b) The tax is not on the privilege of using any particular commodity, but on the privilege of using anything which happens to come within the general designation of "tangible personal property".
- c) However, if the seller of tangible personal property for use would not be taxable under the Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.) despite all elements of the sale occurring in Illinois, then the tax imposed by the Use Tax Act shall not apply to the use of such tangible personal property in this State.
- d) For example, a purchaser of tangible personal property from a seller who qualifies as an isolated or occasional seller so as not to incur Retailers' Occupation Tax liability is not liable for the Use Tax when using such property in Illinois.

(Source: Amended at ___ Ill. Adm. Code ___, effective _____)

Section 150.105 Rate and Base of Tax

The rate of the Use Tax from July 17, 1967, through September 30, 1969, is 4-1/4% on and after January 1, 1990, is 6.25% of the selling price of the tangible personal property involved, and the rate of the Use Tax after September 30, 1969, is 4% of such selling price. Provided that if the property that is purchased at retail from a retailer is acquired outside Illinois and used outside Illinois before being brought to Illinois for use here and is nevertheless taxable under the Use Tax Act, the "selling price" on which the tax is computed shall be reduced by an amount which represents a reasonable allowance for depreciation for the period of such prior out-of-State use.

(Source: Amended at ___ Ill. Adm. Code ___, effective _____)

Section 150.135 How to Avoid Paying Tax on Use Tax Collected From the Purchaser

- a) Taxable receipts, on the basis of which Use Tax must be collected and remitted to the Department in transactions that are subject to the Use Tax despite being exempt from the Retailers' Occupation Tax

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because of interstate commerce, do not include charges which are added to prices on account of the seller's duty to collect the Use Tax.

- b) If a retailer does not keep a detailed record for the return period of the Use Tax which he collects so as clearly to segregate these added charges from other receipts, it will at least in general be assumed that the Use Tax collected equals 4% (if the sale occurred after September 30, 1969, or 4-1/4% if the sale occurred between July 17, 1967, and September 30, 1969) 6.25% of the receipts received in such return period from taxable sales if the retailer collects the Use Tax in accordance with the bracket schedule prescribed by the Department in Subpart B of this Part Section 150. Table A and states such tax separately from the selling price of the tangible personal property, as the retailer is required to do.

- c) The retailer may eliminate the amount of Use Tax which he collects from the total receipts which he receives from taxable sales in arriving at his taxable receipts from such sales by subtracting the amount so collected from the purchaser as Use Tax, as shown by such retailers' books and records, or he may accomplish this result by subtracting, from the total receipts which he receives from taxable sales, the figure obtained by dividing such receipts by 104-1/4 106.25 and multiplying the result by 6.25-4-1/4 if the sale occurred between July 17, 1967, and September 30, 1969, or if the sale occurred after September 30, 1969, this result may be accomplished by subtracting from the total receipts which the retailer receives from taxable sales the figure obtained by dividing such receipts by 104 and multiplying the result by 4.

- d) The seller will not be entitled to any deduction from total receipts because of having collected Use Tax from the purchaser if the seller, in collecting such tax, does not state it to the purchaser as a separate item from the selling price, unless the Department finds that it is not possible, under the facts of the case, for the retailer to collect the tax from the purchaser as a separate item from the selling price and that the retailer is therefore permitted to collect the tax by including it in the selling price of the tangible personal property.

(Source: Amended at ___ Ill. Adm. Code ___, effective _____)

SUBPART B: DEFINITIONS

Section 150.201 General Definitions

- a) Use

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"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of such property in any form as tangible personal property in the regular course of business to the extent that such property is not first subjected to a use for which it was purchased, and does not include the use of such property by its owner for demonstration purposes: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. "Use" does not mean the interim use of tangible personal property by a retailer before he sells such tangible personal property and does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent constituent, into other tangible personal property:

1) which is sold in the regular course of business or

2) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing.

b) Purchase at Retail

"Purchase at retail" means the acquisition of the ownership of, or title to, tangible personal property through a sale at retail.

c) Purchaser

"Purchaser" means anyone who, through a sale at retail, acquires the ownership of ~~7-01-title-to~~ tangible personal property for a valuable consideration.

d) Sale at Retail

"Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for which it was purchased, for a valuable consideration: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an

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ingredient of an intentionally produced product or by-product of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced by-product of manufacturing. "Sale at retail" includes any such transfer made for resale unless made in compliance with Section 2c of the Retailers' Occupation Tax Act, as incorporated by reference into Section 12 of the Use Tax Act. Transactions whereby the possession of the property is transferred but the seller retains the title as security for payment of the selling price are sales.

Selling Price

~~Effective-September-10, 1973-~~ "Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. "Selling price" does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or on account of the seller's tax liability under the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 24, par. 8-11-1), or on account of the seller's tax liability under the Non-Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1.3), on account of the seller's tax liability under the Home Rule County Retailers' Occupation Tax Act (Ill. Rev. Stat., 1979 1989, ch. 34, par. 409-1 5-1006), on account of the seller's tax liability under Section 4 of the Water Commission Act of 1985 (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 254), on account of the seller's tax liability under Section 5.01(b) of the Local Mass Transit District Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 355.01) or Section 4.03(e) of the Regional Transportation Authority Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 704.03). "Selling price" shall include charges that are added to prices by sellers on account of the seller's liability under the Cigarette Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 453.1 et seq.) on account of the seller's duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 453.1 et seq.) and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit. The phrase "like kind

e)

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and character" shall be liberally construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale.

f) Department

"Department" means the Department of Revenue.

g) Person

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.

h) Retailer

"Retailer" means and includes every person engaged in the business of selling tangible personal property for use, and not for resale in any form. Effective October 1, 1974, a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (42 U.S.C.A. 3001 et seq.) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act is not a retailer under the Use Tax Act with respect to such transactions.

1) Nonprofit Sellers

A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests) shall be deemed to be a retailer with respect to such transactions, excepting only a person organized and operated exclusively for charitable, religious or educational purposes to the extent of sales by such person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of such person, and or to the extent of sales by such person of tangible personal property which is not sold or offered for sale by persons organized for profit.

2) Special Order Sales

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A person who holds himself out as being engaged (or who habitually engages) in selling tangible personal property at retail shall be deemed to be a retailer hereunder with respect to such sales (and not primarily in a service occupation) notwithstanding the fact that such person designs and produces such tangible personal property on special order for the purchaser and in such a way as to render the property of value only to such purchaser, if such tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible personal property that are sold at retail.

3) When Construction Contractor or Real Estate Developer is a Retailer

A construction contractor or real estate developer is a retailer under the Use Tax Act to the same extent to which he is a retailer under the Retailers' Occupation Tax Act, as described in Section 130.1940 of the Retailers' Occupation Tax Regulations.

i) Retailer Maintaining a Place of Business in This State

1) "Retailer maintaining a place of business in this State", or any like term, shall mean and include any retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

2) SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MEANS OF A TELECOMMUNICATION OR TELEVISION SHOPPING SYSTEM (WHICH UTILIZES TOLL FREE NUMBERS) WHICH IS INTENDED BY THE RETAILER TO BE BROADCAST BY CABLE TELEVISION OR OTHER MEANS OF BROADCASTING TO CONSUMERS LOCATED IN THIS STATE;

3) PURSUANT TO A CONTRACT WITH A BROADCASTER OR PUBLISHER LOCATED IN THIS STATE, SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MEANS OF ADVERTISING WHICH IS DISSEMINATED PRIMARILY TO CONSUMERS LOCATED IN THIS STATE AND ONLY SECONDARILY TO BORDERING JURISDICTIONS;

4) SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MAIL IF THE SOLICITATIONS ARE SUBSTANTIAL AND RECURRING AND IF THE RETAILER

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BENEFITS FROM ANY BANKING, FINANCING, DEBT COLLECTION, TELECOMMUNICATION, OR MARKETING ACTIVITIES OCCURRING IN THIS STATE OR BENEFITS FROM THE LOCATION IN THIS STATE OF AUTHORIZED INSTALLATION, SERVICING, OR REPAIR FACILITIES;

5) BEING OWNED OR CONTROLLED BY THE SAME INTERESTS WHICH OWN OR CONTROL ANY RETAILER ENGAGING IN BUSINESS IN THE SAME OR SIMILAR LINE OF BUSINESS IN THIS STATE;

6) HAVING A FRANCHISEE OR LICENSEE OPERATING UNDER ITS TRADE NAME IF THE FRANCHISEE OR LICENSEE IS REQUIRED TO COLLECT THE TAX UNDER THIS SECTION;

7) PURSUANT TO A CONTRACT WITH A CABLE TELEVISION OPERATOR LOCATED IN THIS STATE, SOLICITING ORDERS FOR TANGIBLE PERSONAL PROPERTY BY MEANS OF ADVERTISING WHICH IS TRANSMITTED OR DISTRIBUTED OVER A CABLE TELEVISION SYSTEM IN THIS STATE;

8) OR ENGAGING IN ACTIVITIES IN ILLINOIS, WHICH ACTIVITIES IN THE RETAILERS STATE OF DOMICILE IN WHICH THE RETAIL BUSINESS ENGAGING IN SUCH ACTIVITIES IS LOCATED WOULD CONSTITUTE MAINTAINING A PLACE OF BUSINESS IN THAT STATE (Section 2 of the Use Tax Act) (Ill. Rev. Stat. 1985 1989, ch. 120, par. 439.2). For the purpose of determining such state of domicile, the Department will look to the place at which the selling activity takes place. The seller's acceptance of the purchase order or other contracting action in making the sale is the single most important factor in determining selling location.

29) It does not matter that an agent may engage in business on his own account in other transactions, nor that such agent may act as agent for other persons in other transactions, nor that he is not an employee but is an independent contractor acting as agent. The term "agent" is broader than the term "employee". "Agent" includes anyone acting under the principal's authority in an agency capacity.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

Section 150.405 Tax Collection Brackets

Retailers subject to Non-Home Rule Municipal, Home Rule Municipal, Home Rule County, Metro East Mass Transit District, County Water Commission, or Regional Transportation Authority Retailers' Occupation Tax or a combination thereof, of collecting gross receipts or sales taxes imposed by Home Rule units of government in conjunction with the above-listed taxes and the

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applicable State tax, may use the charts in Table A to determine tax for the appropriate combined rate of tax, or multiply the transaction amount by the appropriate combined rate of tax, rounding up to the nearest unit.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

Section 150.710 Procedure in Claiming Exemption from Use Tax

If the purchaser does not incur any Use Tax liability with respect to a particular transaction (as where the purchaser is a church, charity, school or governmental body), the purchaser should present the pertinent facts to the Department for have the pertinent facts presented to the Department by its exemption identification number (see 86 Ill. Adm. Code 130.2005 and 130.2007) to the retailer if the purchaser is paying the tax to the retailer and the retailer is accounting for the tax to the Department) and secure from the Department an exemption ruling or exemption determination which can be submitted to the Secretary of State or to the Department of Transportation, Division of Aeronautics, in the case of aircraft, with the purchaser's application for an Illinois title (or certificate of registration in the case of an aircraft) in lieu of a Use Tax receipt from the Department.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

Section 150.725 Direct Payment of Tax by User to Department on Intrastate Purchase Under Certain Circumstances

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2% 1.75% discount being allowed. When the user pays the tax directly to the Department as aforesaid, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

SUBPART H: RETAILERS' RETURNS

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Section 150.905 Deduction for Collecting Tax

The retailer, in remitting the Use Tax which he has collected from the purchaser, may deduct ~~2~~ 1.7% thereof or \$5.00 per calendar year, whichever is greater, as an allowance for the retailer's cost of collecting such tax. In the case of retailers who report and pay the tax on a transaction by transaction basis, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return. This allowance is available when the tax is remitted with a return that is filed when due under the Act, but is not available in any case in which the tax is paid late (with or without a return, and whether formally assessed by the Department or not). Also, this discount for collecting the tax is not allowable when the Use Tax is remitted directly to the Department by a user.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

SUBPART J: TRADED-IN PROPERTY

Section 150.1101 General Information

- a) The "selling price", which is subject to the Use Tax when a sale at retail is made, includes the consideration for the sale valued in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. "Selling price" does not include charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or on account of the seller's tax liability under ~~Section 8-11-1 of the Illinois Municipal Code, or on account of the seller's tax liability under the County Retailers' Occupation Tax Act the Non-Home Rule Municipal Retailers' Occupation Tax, the Home Rule Municipal Retailers' Occupation Tax, the Home Rule County Retailers' Occupation Tax, Metro East Mass Transit District Retailers' Occupation Tax, County Water Commission Retailers' Occupation Tax or Regional Transportation Authority Retailers' Occupation Tax.~~

- b) The phrase "like kind and character" includes, but is not limited to, the trading of any kind of motor vehicle on the purchase of any kind of motor vehicle, or the trading of any kind of farm implement on the purchase of any kind of farm implement, while not including a kind of item which, if sold at retail by that retailer, would be

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exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale.

- c) A motor vehicle traded to a farm implement dealer for a farm implement would not qualify for the exemption unless such farm implement dealer is also a motor vehicle dealer because the farm implement dealer's sale of the motor vehicle would be exempt as an isolated or occasional sale. A farm implement traded to a motor vehicle dealer for a motor vehicle would not qualify for the exemption unless such dealer is also a farm implement dealer because the motor vehicle dealer's sale of the farm implement would be an exempt isolated or occasional sale. A farm implement traded for a motor vehicle, or a motor vehicle traded for a farm implement, would qualify for the exemption if the seller is engaged in business both as a motor vehicle dealer and a farm implement dealer. Agricultural produce or animals traded for a motor vehicle or for a farm implement would not qualify for the exemption.

- d) The real test is whether the retail sale of the traded-in tangible personal property by the person who accepted it in trade would be subject to Use Tax, or whether such sale would be exempt as an isolated or occasional sale. In the former event, the tangible personal property qualifies for the trade-in exemption. In the latter event, it does not.

- e) ~~The changes made in the foregoing portion of this Section 150.1101 are effective September 10, 1973.~~

- f) No purchase of tangible personal property at retail from a person engaged in the business of selling that kind of property shall be deemed to be exempt from the Use Tax by reason of the fact that the tangible personal property which is being purchased was acquired by the seller as a trade-in, rather than being purchased by the seller. The Use Tax applies to used tangible personal property (however acquired by the seller who is engaged in the business of selling that kind of property), as well as to new tangible personal property, as long as the sale is being made at retail by a person engaged in the business of selling that kind of property.

(Source: Amended at ___ Ill. Reg. ___, effective _____)

SUBPART L: BOOKS AND RECORDS

Section 150.1310 Use of Signs to Prove Collection of Tax as a Separate Item

- a) If the retailer who is entitled to use the posted sign procedure wishes to comply with the requirement in question without raising his prices, he may do this by publicly displaying a sign stating

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that all tangible personal property for which a given charge is made is being sold for a specified amount, with the Use Tax and local Retailers' Occupation Tax being a specified amount based on the applicable tax collection schedule that is set out in Subpart D of this Part, and with the total equaling the entire charge which the seller makes for such tangible personal property.

- b) Another acceptable form of sign (assuming a 1% local Retailers' Occupation Tax rate to be applicable) may read:

Charges from 13¢ to 25¢, inclusive, represent 1¢ Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 26¢ to 46¢, inclusive, represent 2¢ Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 47¢ to 67¢, inclusive, represent 3¢ Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 68¢ to 88¢, inclusive, represent 4¢ Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; charges from 89¢ to \$1.09, inclusive, represent 5¢ Use Tax and local Retailers' Occupation Tax, and the balance is the price of the merchandise being sold; each additional charge of 20¢ or any part thereof shall represent 1¢ Use Tax and local Retailers' Occupation Tax, and the balance shall represent the price of the merchandise being sold.

- c) In the case of the first 2 types of signs referred to hereinabove, appropriate adjustments would have to be made if the rate of the local Retailers' Occupation Tax is not 1%.

- d) The requirements in question will be met if the sign (when the sign procedure is authorized under the terms of this ~~Regulation~~ Section) states that the selling price of the tangible personal property includes the Use Tax and local Retailers' Occupation Tax or some equivalent expression. The sign need not mention the local Retailers' Occupation Tax if the retailer is located in an area in which no ~~Municipal or County~~ local Retailers' Occupation Tax is in effect.

- e) If a sign is relied on to lay the basis for saying that the Use Tax is being stated separately to the purchaser from the selling price of the property, the sign should be dated to indicate for what period it was in effect and should be retained by the seller among his books and records in the event of a subsequent audit by the Department. Except in the case of fraud or the willful failure to file returns, the maximum period for keeping records for Use Tax purposes is 3 1/2 years.

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(Source: Amended at ___ Ill. Reg. ___, effective ___)

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 150.1401 Claims for Credit--Limitations--Procedure

- a) When Purchasers May File Claims

If it shall appear that an amount of tax or penalty or interest has been paid in error under the Use Tax Act to the Department by a purchaser, as distinguished from the retailer, whether such amount be paid through a mistake of fact or an error of law, such purchaser may file a claim for credit with the Department.

- b) When Retailers May File Claims--Unjust Enrichment Prohibited

- 1) If it shall appear that an amount of tax or penalty or interest has been paid in error to the Department under the Use Tax Act by a retailer who is required or authorized to collect and remit the Use Tax, whether such amount be paid through a mistake of fact or an error of law, such retailer may file a claim for credit with the Department, provided that no credit shall be allowed for any amount paid by any such retailer unless it shall appear that he bore the burden of such amount and did not shift the burden thereof to anyone else (as in the case of a duplicated tax payment which the retailer made to the Department and did not collect from anyone else), or unless it shall appear that he or his legal representative has unconditionally repaid such amount to his vendee:

- A) who bore the burden thereof and has not shifted such burden directly or indirectly in any manner whatsoever;
- B) who, if he has shifted such burden, has repaid unconditionally such amount to his own vendee, and
- C) who is not entitled to receive any reimbursement therefor from any other source than from his vendor, nor to be relieved of such burden in any other manner whatsoever.

- 2) If it shall appear that an amount of tax has been paid in error under the Use Tax Act by the purchaser to a retailer, who retained such tax as reimbursement for his tax liability on the same sale under the Retailers' Occupation Tax Act, and who remitted the amount involved to the Department under the Retailers' Occupation Tax Act, whether such amount be paid through a mistake of fact or an error of law, the procedure for recovering such tax shall be that prescribed in Sections 6, 6a, 6b and

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6c of the Retailers' Occupation Tax Act.

c) Time Limit On the Filing Of Claims

As to any claim for credit filed with the Department on and after January 1 but on or before June 30 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Use Tax Act) more than 3 years prior to such January 1 shall be credited, and as to any such claim filed on and after July 1 but on or before December 31 of any given year, no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Use Tax Act) more than 3 years prior to such July 1 shall be credited OR REFUNDED, EXCEPT THAT IF BOTH THE DEPARTMENT AND THE TAXPAYER HAVE AGREED TO AN EXTENSION OF TIME TO ISSUE A NOTICE OF TAX LIABILITY AS PROVIDED IN SECTION 4 OF THIS ACT, SUCH CLAIM MAY BE FILED AT ANY TIME PRIOR TO THE EXPIRATION OF THE PERIOD AGREED UPON. (Ill. Rev. Stat. 1989, ch. 120, par. 445) No claim shall be allowed for any amount paid to the Department, whether paid voluntarily or involuntarily, if paid in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court.

d) Procedure For Filing Of Claims

- 1) Claims for credit shall be prepared and filed upon forms provided by the Department. Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.
- 2) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department.
- 3) Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.
- 4) Such written receipt shall be prima facie evidence that the

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Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.

- 5) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 19 of the Act.)

e) Procedure After Filing Of Claims

- 1) The Department will examine each claim for credit as soon as practicable after such claim is filed and will notify the claimant (or his legal representative, if the claim is filed by such legal representative, or if the claimant has died or become incompetent and such legal representative has notified the Department of his appointment and qualification as such legal representative, or if the Department, on its own motion, has substituted such legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.
- 2) If such claimant, or the legal representative of a deceased or incompetent taxpayer, shall, within 20 days after the Department's Notice of Tentative Determination of Claim, file a protest thereto and request a hearing thereon, the Department shall give notice to such claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for such hearing, and shall hold a hearing in conformity with the provisions of the Act, and pursuant thereto shall issue its Final Determination of the amount of credit, if any, found to be due as a result of such hearing, to such claimant, or to the legal representative of a deceased or incompetent taxpayer.
- 3) If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 20 days and a request for a hearing thereon is not made as hereinabove provided, the said Notice shall thereupon become and operate as a Final Determination. (See Section 20 of the Act.)
- f) Use of Credit Memoranda to Satisfy Prior Rights of Department
 - 1) If, following the above procedure, a credit is found to be due,

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as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant. If there is an established unpaid assessment or an admitted unpaid liability under the Use Tax Act, ~~or under~~ the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department against the claimant, or unpaid penalty, or unpaid interest, the amount of the credit shall be credited against the tax or penalty or interest due. If the credit is in an amount less than that of the unpaid liability, it shall be applied pro tanto.

2) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department.

3) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, or any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

4) If a taxpayer is notified that due to overpayments, a verified credit balance is available, the taxpayer may file a claim for credit.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 150.1405 Disposition of Credit Memoranda by Holders Thereof

a) Assignment of Credit Memoranda

1) Credit memoranda issued hereunder may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:

A) that the assignment is made to a person who is subject to the Use Tax Act, or to the Retailers' Occupation Tax Act, or to the Service Occupation Tax Act, or to the Service Use Tax Act;

B) that there is no proceeding pending to establish an unpaid liability against the assignor pursuant to notice given of the Department's proposal to assess an amount against him either under the Use Tax Act, ~~or under~~ the Retailers' Occupation Tax Act, the Service Occupation Tax Act, or the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department and

C) that there is no established assessment or admitted tax liability or interest or penalty unpaid by the assignor, either under the Retailers' Occupation Tax Act, ~~or under~~ the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department: provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an established unpaid assessment which has been issued to the claimant-assignor, or in total or partial liquidation of an unpaid admitted tax liability, or unpaid penalty, or unpaid interest, of the claimant-assignor, notice to this effect shall be given the claimant-assignor by the Department.

2) If any balance is due such claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, such balance may be assigned upon receipt by the Department of instructions to that effect.

3) If there are no unpaid established assessments or unpaid admitted tax liabilities, or unpaid penalties, or unpaid amounts of interest due from the claimant-assignor, and if there are no pending proceedings as herein outlined against the claimant-assignor, and if the contemplated assignee is a person who is subject to the Use Tax Act, or the Retailers' Occupation Tax Act, or the Service Occupation Tax Act, or the Service Use Tax Act, the request for leave to assign shall be approved.

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- 3) However, any new credit memorandum, which is issued for a balance of credit due the taxpayer after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see subsection (a) of this Section) or when leave to assign a credit memorandum is requested (see Section 150.1405(a) of this Part).

c) Verified Credits and Offsets

If a taxpayer is entitled to a verified credit due to overpayment of taxes, the taxpayer may file a claim for credit as described above, in which case interest would be paid upon the amount of credit approved, or the taxpayer may elect to apply the verified credit balance directly to any outstanding liabilities or current payments due. The Department may also apply verified credit amounts to unpaid liabilities, penalties, account balances, if any, of the taxes administered by the Department.

(Source: Amended at Ill. Reg. _____, effective _____)

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- 4) The original credit memorandum shall be canceled, and a new credit memorandum shall be issued to the assignee in the amount shown on the canceled memorandum.
- 5) However, before a credit memorandum is issued to the assignee, the amount of such credit shall be applied, to the extent that may be necessary, in liquidation of any established or admitted unpaid liability due from the assignee under the Use Tax Act, Retailers' Occupation Tax Act, Service Occupation Tax Act, Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department and a credit memorandum for the balance of the credit, if any, shall then be issued to the assignee: provided that there is no proceeding pending against the assignee to establish an unpaid liability against him under any of said Acts.
- 6) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final under the Act, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, and any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the assignor for transmittal to the assignee.

b) Submission of Credit Memoranda With Tax Returns

- 1) Credit memoranda, in the hands either of the original claimant or of his assignee, may be submitted to the Department, along with Use Tax returns, in payment of any tax liability or penalty or interest due under the Use Tax Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, or under a local Retailers' Occupation Tax or Service Occupation Tax administered by the Department, incurred by the holder of such credit memoranda.
- 2) If, after applying any such credit memorandum against the amount of liability shown to be due by the tax return with which the credit memorandum is submitted, there is a balance of the credit memorandum in favor of the taxpayer, the Department will cancel the credit memorandum which the taxpayer submits with his return and will issue and deliver to such taxpayer a new credit memorandum for such balance. This process will be followed until the credit, to which such taxpayer is entitled, is exhausted.

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1) The Heading of the Part: Reports of Child Abuse and Neglect

2) Code Citation: 89 Ill. Adm. Code 300

3) Section Numbers: Adopted Action

300.20 Amendment

300.90 Amendment

300.130 Amendment

300.140 Amendment

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 23, par. 2051 et seq. and 42 U.S.C. 5101 et seq.

5) Effective Date of Amendments: November 28, 1990

6) Does this rulemaking contain an automatic repeal date: Yes ☐ No ☒ If so, please specify date:

7) Do these amendments contain incorporations by reference? No If "yes," was a copy of the approval form issued by JCAR attached to this rulemaking?

8) Date Filed in Agency's Principal Office: November 27, 1990

9) Notice(s) of Proposal Published in Illinois Register:

July 20, 1990, 14 Ill. Reg. 11423 (issue date)

10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No

11) Difference(s) between proposal and final version:

Pursuant to comments received from the Administrative Code Division statutory references and dates were corrected as well as any spelling errors that occurred.

The definition of "neglected child" was amended to delete the proposed language added at the end of the definition and to substitute the following new sentence to the end of the definition:

"Nothing in this rule shall be construed as requiring or prohibiting a finding of negligent treatment or maltreatment when a parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child, or that a substantial risk of neglect exists solely because a parent or

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responsible person ordinarily provides treatment by spiritual means through prayer alone for the cure and remedial care for a child. Neither shall anything in this rule limit the authority of the Department to make or receive reports of suspected child abuse/neglect, to investigate such reports, to provide protective services, or to seek judicial authority to obtain necessary medical treatment on behalf of children where there is harm or substantial risk of harm to the children's health."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The purpose of these amendments is to bring the Department's definitions of "abused child", "neglected child", and "person responsible for the child's welfare" into compliance with federal definitions contained in the Child Abuse Prevention and Treatment Act. The major changes to the definition are the addition of "mental injury" to the definition of "abused child" and the addition of "substantial risk" to the definition of "neglected child". The religious exception clause contained in the definition of "neglected child" was also amended to clarify the fact that children whose parents rely on spiritual means through prayer alone for the treatment and cure of disease are subject to the reporting and investigating responsibilities of the Department and the ability of the Department to provide protective services or seek judicial authority to obtain necessary medical treatment on behalf of such children when there is a harm or substantial risk of harm present. A clarification was added to the definition of "person responsible for the child's welfare" that residential facility employees and out-of-home care staff persons are also included in the definition.

Other changes to the rules were made as a result of problems identified by Department field staff. Those changes are as follows:

In Section 302.90 in-person contact within 24 hours with the mother of hospitalized drug exposed infants will suffice to meet the 24 hour in-person contact requirement. This contact with the mother must be in the environment in which she intends to reside with the infant.

Section 300.130 was amended to allow the Department to inform supervisors or administrators of the outcome of a child abuse or neglect investigation involving an employee, when the employee's job involves frequent contact with children.

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Section 300.140 was amended to allow the Department to notify private school administrators of the outcome of a child abuse or neglect investigation involving persons employed at a private school.

16) Information and questions regarding these amendments shall be directed to:

Name: Jacqueline Nottingham, Chief
Address: Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe
Springfield, Illinois 62701-1498
Telephone: 217/785-2592

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 300
REPORTS OF CHILD ABUSE AND NEGLECT

Section	Purpose
300.10	Definitions
300.20	Reporting Child Abuse or Neglect to the Department
300.30	Content of Child Abuse or Neglect Reports
300.40	Transmittal of Child Abuse or Neglect Reports
300.50	Referrals to the Local Law Enforcement Agency and State's Attorney
300.70	Delegation of the Investigation
300.80	Time Frames for the Investigation
300.90	Initial Investigation
300.100	The Formal Investigative Process
300.110	Taking Children into Temporary Protective Custody
300.120	Notices Whether Child Abuse or Neglect Occurred
300.130	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.140	Referral for Other Services
300.150	Special Types of Reports
300.160	Acknowledgement of Mandated Reporter Status
APPENDIX A	Child Abuse and Neglect Allegations
APPENDIX B	

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1989, ch. 23, pars. 2051 et seq.) and Section 3 of "AN ACT in relation to the performance of medical, dental or surgical procedures on and counseling of minors" (Ill. Rev. Stat. 1989, ch. 111, par. 4503).

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendments at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg.

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17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990.

Section 300.20 Definitions

"Abused Child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;
creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;
commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;
commits or allows to be committed an act or acts of torture upon such child; or
inflicts excessive corporal punishment.
 (Ill. Rev. Stat. 19879, ch. 23, par. 2053)

"Caretaker" means the child's parent(s), guardian or custodian with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Child care facility" means any person, group of persons, agency, association, or organization which arranges for or cares for children unrelated to the operator of the facility, apart from the parents. Child care facilities may be established for profit or not-for-profit.

"Child care facility" is further defined in Section 2.05 of the Child Care Act and includes foster family homes and day care homes.

"Child Protective Service Unit" (CPS) means certain specialized State employees of the Department assigned by the Director or his designee to perform the duties and responsibilities as provided under this Part. They are also known as investigative staff. (Ill. Rev. Stat. 19879, ch. 23, par. 2053)

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"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parent(s) has signed an adoptive surrender or voluntary placement agreement with the Department.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts when viewed in light of surrounding circumstances would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the decision whether a report of child abuse or neglect was "indicated" or "unfounded" has been deferred to another authority. The Department maintains responsibility for entering information about the report in the State Central Register and for notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department," as used in this Part, means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded."

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Such activities shall include: an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report in writing, of the existence of the report and their rights existing under this Act in regard to amendment or expungement. (Ill. Rev.

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Stat. 1987², ch. 23, par. 2053)

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial Investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial Oral Report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved Subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 of this Part.

"Neglected child" means any child whose parent or other person responsible for the child's welfare withholds or denies nourishment or medically indicated treatment including food or care denied solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise does not provide or there is a substantial risk that such parent or person responsible will not provide the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare or who is a newborn infant whose blood and urine contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of

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cure of disease or remedial care under Section 4 of this Act. Nothing in this rule shall be construed as requiring or prohibiting a finding of negligent treatment or maltreatment when a parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child, or that a substantial risk of neglect exists solely because a parent or responsible person ordinarily provides treatment by spiritual means through prayer alone for the cure and remedial care for a child. Neither shall anything in this rule limit the authority of the Department to make or receive reports of suspected child abuse/neglect, to investigate such reports, to provide protective services, or to seek judicial authority to obtain necessary medical treatment on behalf of children where there is harm or substantial risk of harm to the children's health.

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, any--person--responsible--for--the--child's welfare an operator, supervisor, or employee of a public or private residential agency or institution --any--person--responsible--for--the child's welfare--with--a or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, and volunteers or support personnel in any setting where children may be subject to abuse or neglect. (Ill. Rev. Stat. 1987⁹, ch. 23, par. 2053)

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible

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evidence of the alleged abuse or neglect exists.

(Source: Amended at 14 Ill. Reg. 19827, effective November 28, 1990)

Section 300.90 Time Frames for the Investigation

The following activities must be completed within the time frames indicated, except as exempted in Section 300.110(d). The time the report was received at the State Central Register begins the investigative process.

- a) In-person contact with alleged child victim or 24 hours in-person examination of the environment for inadequate shelter and environmental neglect reports only or in-person contact with mothers of infants who are hospitalized with controlled substances in their systems. Contact with mother of hospitalized infants shall be in the environment in which the mother intends to reside with the infant. Good faith attempt/Begin the initial investigation. The investigation shall begin immediately if the child is believed to be in immediate danger of physical harm or it is likely that the family may flee with the child.
- b) In-person contacts with the alleged perpetrator, the children's caretaker and the alleged child victim if not completed sooner
- c) Begin the Formal Investigation (Written) 14 days
- d) Final Determination--Formal Investigation 60 days (Written)
- e) Preliminary Investigation Report -- If a 30-day extension to the formal investigation is necessary

(Source: Amended at 14 Ill. Reg. 19827, effective November 28, 1990)

Section 300.130 Notices Whether Child Abuse or Neglect Occurred

- a) The Department provides a written notice to mandated reporters who reported suspected child abuse or neglect as well as to the child's parent, personal guardian, or legal custodian; the Juvenile Court Judge (when a State ward is involved); and the alleged perpetrator concerning the final determination of the report.

b) Mandated Reporters

- 1) Mandated reporters who have reported suspected child abuse or neglect are informed via a written notice that a formal investigation was conducted. The written notice also provides an explanation of how further information on an indicated report may

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explanation of how further information on an indicated report may be secured. Department staff will notify them in writing:

- A) whether the child was the subject of a report of abuse or neglect;
 - B) whether the report was indicated or unfounded;
 - C) whether the Department took temporary protective custody.
- 2) Requests for additional information must be directed, in writing, to the State Central Register and must include:
- A) the identity of the requestor;
 - B) the subject(s) name for whom the record is requested;
 - C) a notary public's attestation as to the identity of the requestor;
 - D) the purpose of the request.
- 3) Upon receipt of an appropriate request, only the following information will be disclosed to the mandated reporter:
- A) whether a Department case has been opened for the family or children; and
 - B) what Department services are being provided to the family or children.
- 4) All requested information is sent in writing through certified mail and is deliverable only to the mandated reporter who made the request.
- c) Custodial Parents, Personal Guardians, Legal Custodians, and Alleged Perpetrators
- 1) Custodial parents, personal guardians, or legal custodians of child subjects; and alleged perpetrators shall receive notification within 5 calendar days after the report has been indicated or unfounded which indicate that the allegations were either:
 - A) unfounded, and that all identifying information in the computer and local index files will be destroyed unless the subjects request that they be retained; or
 - B) indicated, and all Department records will be maintained intact.

2) In addition, written notices shall explain that:

- A) the subjects of the report have access to the Department's records on the report, with the exception of the identity of the reporter or other persons who cooperated in the investigation;
- B) the subjects of the report have the right to request a review of the determination that the report was indicated including the decision to maintain a record of the report in the Department's computer and local index files. 89 Ill. Adm. Code 309 fully explains the Department's review and appeal process; and
- C) the subjects of the report may request, within 10 days of the date on the written notice, that an unfounded report be retained in the Department's computer and local index files, if the subjects of the report believe the report was not

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made in good faith. All such requests will be honored.

- d) Other Parties
The Department shall notify non-custodial, legal parents of involved child subjects only when the child abuse or neglect report is indicated and the parents' whereabouts are known. The Department shall also notify the Juvenile Court when a report involving state wards is indicated. If services are being provided, the notice shall also give the name and location of the Department office that is serving their children. The Department shall also notify those supervisors or administrators referenced in Section 300.100(i) of this Part whether the report was indicated or unfounded.

(Source: Amended at 14 Ill. Reg. 1987, effective November 28, 1990)

Section 300.140 Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents

- a) The Department will transmit to the Illinois Department of Professional Regulation information regarding perpetrators of indicated reports of child abuse or neglect who are known to be subject to licensure or registration by the Department of Professional Regulation under the following Acts:

- 1) Section 23 of The Illinois Dental Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 2323)
- 2) Section 25 of The Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 3525)
- 3) Section 24 of The Illinois Optometric Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 3924)
- 4) Section 17 of "AN-Act--in--relation--to--physical--therapy" The Illinois Physical Therapy Act (Ill. Rev. Stat. 1987, ch. 111, par. 4267)
- 5) Section 22 of the Medical Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 4400-22)
- 6) Section 21 of the Physician Assistant Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 4621)
- 7) Section 24 of the Podiatric Medical Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 4824)
- 8) Section 15 of the Clinical Psychologist Licensing Act (Ill. Rev. Stat. 1987, ch. 111, par. 5316)
- 9) Section 119 of the Social-Workers--Registration--Act Clinical Social Work and Social Work Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 6315 6369)
- 10) Section 16 of the Illinois Athletic Trainers Practice Act (Ill. Rev. Stat. 1987, ch. 111, par. 7616)

- b) The Department will transmit to district school superintendents in Illinois and private school administrators information regarding any persons known to be employed in a school or who otherwise come into frequent contact with children in a school who are determined to be

- c) The Department will transmit to regional superintendents and the State Superintendent of Education information that a person known to be a holder of a certificate issued by the State Board of Education has been named as a perpetrator in an indicated report of child abuse or neglect.

- d) If a request for a review and fair hearing is received within 60 calendar days of the date on the written notice that the report is indicated, information regarding the request will be sent to the Department of Professional Regulation or district and regional school superintendents and the State Superintendent of Education in accord with applicable law.

- e) Whenever the Department receives a report alleging that a child is a truant as defined in Section 26-2a of the School Code (Ill. Rev. Stat. 1989, ch. 122, par. 126-2a), the Department shall notify the superintendent of the school district in which the child resides and the superintendent of the educational service region in which the child resides.

(Source: Amended at 14 Ill. Reg. 1987, effective November 28, 1990)

DEPARTMENT OF CONSERVATION

NOTICE OF ADOPTED RULES

- 1) HEADING OF THE PART: Consultation Procedures for Assessing Impacts of Agency Actions on Endangered and Threatened Species

- 2) CODE CITATION: 17 Ill. Adm. Code 1075

- 3) SECTION NUMBERS:

1075.10 New Section
1075.20 New Section
1075.30 New Section
1075.40 New Section
1075.50 New Section
1075.60 New Section
1075.70 New Section
1075.80 New Section

- 4) STATUTORY AUTHORITY: Implementing and authorized by Section 11(b) of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 341).

- 5) EFFECTIVE DATE OF RULES: December 3, 1990

- 6) DOES THIS RULEMAKING CONTAIN AN AUTOMATIC REPEAL DATE? No

- 7) DO THESE RULES CONTAIN INCORPORATIONS BY REFERENCE? No

- 8) DATE FILED IN AGENCY'S PRINCIPAL OFFICE: November 27, 1990

- 9) NOTICE OF PROPOSAL PUBLISHED IN ILLINOIS REGISTER: July 13, 1990, 14 Ill. Reg. 11033; Notice of Corrections to Notice Only published August 17, 1990, 14 Ill. Reg. 13366.

- 10) HAS JCAR ISSUED A STATEMENT OF OBJECTIONS TO THESE RULES: No

- 11) DIFFERENCES BETWEEN PROPOSAL AND FINAL VERSION:

In Section 1075.10, "these rules" was replaced with "this Part".

In Section 1075.10(d), "These rules provide" was replaced with "This Part provides".

In Section 1075.20, the terms being defined were placed in quotes.

In Section 1075.20, under "Conservation", the comma following "of" was removed.

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In Section 1075.20, under "Report of Action", "form provided by the Department and submitted" was replaced with "report submitted to the Department".

In Section 1075.30(a), "must" in line 8 was changed to "shall".

In Section 1075.30(a)(4), the comma following "as" was removed.

In Section 1075.30(a)(5), a comma was added following "water".

In Section 1075.40(e), "Form" in line 4 was removed.

In Section 1075.40, following "As authorized by" the following was added: "Section 11(a) of".

In Section 1075.40(b), "will" in line 4 was changed to "shall".

In Section 1075.40(c), items 5 through 7 were relabeled 4 through 6.

In Section 1075.40(d), the last sentence was removed and the following sentence was added "The Department shall assist units of local government, upon request, if the unit of local government does not have the expertise to provide the required data and does not have the resources to procure outside experts."

In Section 1075.40(g), "practicable" was added following "discuss" and a comma was added following "minimize".

In Section 1075.40(h), "their" was replaced with "its" and "they are" was replaced with "it is".

In Section 1075.40(j), "level" was removed.

In Section 1075.50(c)(2), "are" was replaced with "is" and "will" was replaced with "shall".

In Section 1075.50(c)(4), "will" was replaced with "shall"; "such time that" was removed and "municipality" was replaced with "agency".

In Section 1075.50(d), "may" was replaced with "shall" in two places.

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In Section 1075.60(a)(2)(B), the last sentence was removed.

In Section 1075.70, ", where appropriate" was removed.

In Section 1075.80, "will" was replaced with "shall" and "upon request" was added following "available".

12) HAVE ALL THE CHANGES AGREED UPON BY THE AGENCY AND JCAR BEEN MADE AS INDICATED IN THE AGREEMENT LETTER ISSUED BY JCAR? Yes

13) WILL THESE RULES REPLACE AN EMERGENCY RULE (AMENDMENT, REPEALER) CURRENTLY IN EFFECT? NO

14) ARE THERE ANY AMENDMENTS PENDING ON THIS PART? No

15) SUMMARY AND PURPOSE OF RULES: This Part was promulgated to comply with Section 341(c) of the Illinois Endangered Species Protection Act, which authorizes the Department of Conservation to adopt rules necessary for the implementation of the Act.

16) INFORMATION AND QUESTIONS REGARDING THESE ADOPTED RULES SHALL BE DIRECTED TO:

Jack Price
Department of Conservation
524 S. Second Street, Room 485
Springfield, IL 62701-1787

THE FULL TEXT OF THE ADOPTED RULES BEGINS ON THE NEXT PAGE:

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DEPARTMENT OF CONSERVATION

NOTICE OF ADOPTED RULES

TITLE 17: CONSERVATION

CHAPTER I: DEPARTMENT OF CONSERVATION

SUBCHAPTER C: ENDANGERED SPECIES

PART 1075

CONSULTATION PROCEDURES FOR ASSESSING IMPACTS
OF AGENCY ACTIONS ON ENDANGERED AND THREATENED SPECIES

Section	Purpose
1075.10	Definitions
1075.20	Actions Reviewed and Exempted
1075.30	Consultation Process
1075.40	Special Circumstances
1075.50	Emergencies
1075.60	Public Involvement
1075.70	Alternative Action Guidelines
1075.80	

AUTHORITY: Implementing and authorized by Section 11(b) of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 341).

SOURCE: Adopted at 14 Ill. Reg. 19839, effective December 3, 1990.

Section 1075.10 Purpose

The purpose of this Part is:

- a) To establish a consultation process between the Department and agencies of State and local governments of Illinois concerning impacts on State endangered and threatened species by actions authorized, funded, or carried out by those agencies which are authorized by Section 11(b) of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 341).
- b) To provide a consultation procedure designed to assist agencies of State and local governments in the evaluation of proposed actions for the purpose of addressing the adverse impacts to endangered or threatened flora or fauna as listed by the Illinois Endangered Species Protection Board, or to the essential habitat of such species.
- c) To promote the conservation of threatened and endangered species by establishing the following policy: the avoidance of adverse impacts is a priority of action;

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when avoidance is not practicable, adverse impacts should be minimized; and when practicable alternatives do not exist and an adverse impact is likely to occur, compensation shall be requested.

d) This Part provides details for the following:

- 1) actions requiring review and those exempted;
- 2) filing of the Report of Action;
- 3) filing of the Detailed Action Report;
- 4) preparation of the biological opinion;
- 5) emergencies;
- 6) public involvement opportunities; and
- 7) alternative action guidelines.

Section 1075.20 Definitions

The following terms will be used throughout this Part:

"Action" - construction, land management, or other activities that will result in a change to the existing environmental conditions that are authorized, funded, or performed in whole or in part by agencies of State and local governments, and that may affect listed endangered or threatened species or their essential habitat.

"Adverse Impact" - a direct or indirect alteration of the physical or biological features of the air, land or water which may affect the survival, reproduction or recovery of a listed species.

"Agency" - includes all agencies, boards and commissions which are under the jurisdiction of State or local governments.

"Biological Opinion" - the component of the Detailed Action Report prepared by the Department, when a valid record of an occurrence for a threatened or endangered species exists within the vicinity of a proposed action. This opinion will conclude whether the action will jeopardize the listed species present or destroy or adversely modify their essential habitat.

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"Conservation" - utilization of all methods and procedures which are necessary to bring any endangered or threatened species to the point at which the protection provided by the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 331 et seq.) are no longer necessary. These methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, habitat acquisition, habitat management, restoration, and maintenance and propagation.

"Cumulative Effects" - direct and indirect effects of a proposed action(s) together with the identifiable effects of actions that are interrelated or interdependent with the action. Indirect effects are those that are caused by the action but are later in time or farther in distance. Interrelated actions are those that are a part of a larger action. Interdependent actions are those that have independent utility apart from the action.

"Department" - means the Department of Conservation.

"Detailed Action Report" - a written report that is prepared by an agency when a threatened or endangered species has been identified within the vicinity of a proposed action. This report shall contain sufficient information to make a judgement regarding the potential adverse impacts to a listed species or its essential habitat.

"Essential Habitat" - is the physical and biological environment that is required to maintain viable populations of a listed species in order to ensure the survival and recovery of that species.

"Jeopardize" - to engage in an action which would reduce the likelihood of the survival or recovery of a listed species or would result in the destruction or adverse modification of the essential habitat of such a species.

"Listed Species" - is any species of plant or animal which has been listed as endangered or threatened by the Illinois Endangered Species Protection Board or the U.S. Fish and Wildlife Service.

"Report of Action" - a report submitted to the Department

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by agencies proposing an action(s) requiring consultation. The information required to be submitted shall be sufficient to determine the presence or absence of a threatened or endangered species in the vicinity of the proposed action.

"Vicinity" - the area surrounding the action, as determined by the life history requirements of the species of concern.

Section 1075.30 Actions Reviewed and Exempted

a) Actions Requiring Review for Consultation - Any construction, land management or other activity authorized, funded or performed by a State agency or local unit of government that will result in a change to the existing environmental conditions and/or may have a direct or indirect adverse impact on a listed species or its essential habitat or that otherwise jeopardizes the survival of that species shall be evaluated through the consultation process. This includes but is not limited to the following:

- 1) the alteration, removal, excavation or plowing of non-farmed, non-cultivated areas, or dredging of soil, sand, gravel, minerals, organic matter, vegetation, or naturally occurring materials of any kind;
- 2) the changing of existing drainage characteristics or sedimentation patterns;
- 3) the grading or removal of materials that would alter existing topography;
- 4) the creation of new, or the increase in existing permanent barriers to the movement of wildlife, such as dam construction;
- 5) a discharge of pollutants into the air, water, or on the land;
- 6) the application of chemicals to the air, water, or on the land;
- 7) preliminary plats, plans and permits; and
- 8) an application for rezoning from a non-urban

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classification to an urban classification (e.g. from agricultural to residential).

b) Actions Not Requiring Review - Actions authorized, funded or performed by State agencies or local units of government not having an adverse impact to a listed species or its essential habitat are not required to be evaluated by the consultation process. Such actions shall involve activities not listed in Section 1075.30(a) (e.g. acquisition).

c) Actions Exempted - The following actions are exempt from the consultation process unless it is evident that there will be an adverse impact to a listed species or its essential habitat:

- 1) mowing within maintained highway rights-of-way;
 - 2) routine resurfacing and application of oil and gravel to existing roads and highways that do not require widening of the road or shoulder;
 - 3) construction activities required for the maintenance or repair of existing structures;
 - 4) actions in those areas with a Department-approved management plan, where the proposed actions are consistent with the Plan;
 - 5) actions within highway rights-of-way, unless specifically notified by the Department, that adjoin land used for agricultural or urban purposes, except those portions of the right-of-way adjacent to borrow pits, railroads, streams, wetlands, lakes, or other natural areas and open space.
 - 6) maintenance of existing lawns, yards and ornamental plantings;
 - 7) annual, routine cultivation of existing agricultural lands; and
 - 8) change of zoning requests for land currently zoned, developed, and used in its entirety for commercial, industrial or residential purposes.
- d) Memorandums of Understanding - the Department may enter into an agreement with an agency, referred to as a

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Memorandum of Understanding (MOU) which allows the development of an expedited review process, the review of comprehensive plans and natural resource ordinances, or exemptions from the consultation process those actions commonly performed by that agency and that have no adverse impact to a listed species or its essential habitat.

- 1) The Memorandum of Understanding shall expire in 1 to 3 years, based on the type of activity or the frequency with which it is performed. At the time of renewal, the agency shall submit a report evaluating the following:

- A) whether the actions exempted avoided, minimized or created an adverse impact to a listed species and its essential habitat; and
- B) if the technology of the exempted action has changed to such an extent that the action should no longer be exempted.

- 2) The Memorandum of Understanding shall be available for review from the Department upon request.

- e) If more than two years elapses between the review and approval of the proposed action and implementation, the Department shall have an opportunity to review the Report of Action again to determine whether a listed species is present.

- f) Compliance with this Part does not relieve the agency from applicable state or federal laws or regulations.

Section 1075.40 Consultation Process

As authorized by Section 11(a) of the Illinois Endangered Species Protection Act (Ill. Rev. Stat. 1989, ch. 8, par. 341), state and local units of government shall evaluate, through a consultation process with the Department, whether actions authorized, funded, or carried out by them, as defined in Section 1075.30, are likely to jeopardize the continued existence or recovery of Illinois listed endangered or threatened species or are likely to result in the destruction or adverse modification of the essential habitat of such species. The proposed action shall not commence until the completion of the consultation process. This consultation process shall consist of the following:

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- a) After identifying a specific action included in Section 1075.30, an agency shall complete and submit the Report of Action to the Department. This shall be submitted as early in the planning process as may be practicable and prior to approval of preliminary plat, design, permit, plan, or project approval. The purpose of this report is to identify the specific location of the project in order to determine if a listed species is located within the vicinity of the proposed action. The Report of Action shall include but not be limited to the following:

- 1) name and address of agency proposing the action;
- 2) the responsible person within that agency;
- 3) the precise location of the proposed action in sufficient detail to determine the presence or absence of a listed species;
- 4) a brief description of the proposed action; and
- 5) the starting and ending dates of the proposed action.

- b) The Department shall review the Report of Action and determine whether a valid record of occurrence for a listed species exists within the vicinity of the proposed action. The agency shall receive one of two responses from the Department within 30 calendar days of receipt of the Report of Action:

- 1) If no listed species or their essential habitat have been identified in the vicinity of the proposed action, a letter will be sent indicating that further consultation is not necessary.
- 2) If a listed species is identified within the vicinity of the project, the agency will be sent a letter explaining the continuation of the consultation process and a Detailed Action Report. The agency shall complete the Detailed Action Report, and submit it to the Department. Sufficient information must be provided about the proposed action to determine the potential indirect, direct and cumulative adverse impacts to the listed species present or its essential habitat. The Detailed Action Report shall include, but is not limited to the following components:

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- 1) name and address of agency proposing the action;
 - 2) responsible person within the agency;
 - 3) a detailed map indicating the precise location of the proposed action;
 - 4) a detailed description of the proposed action, including any direct or indirect alteration or destruction of the vegetation, changes anticipated to air or water quality, alteration of the topography, or any other detail that might jeopardize the listed species or its essential habitat;
 - 5) starting and ending dates of the proposed project; and
 - 6) discussion of alternatives which were considered.
- d) Upon completing the portion of the Detailed Action Report involving the proposed project, the agency shall provide background information on the listed species present. The direct and indirect effects of the proposed action on the listed species and its essential habitat including cumulative effects shall be analyzed by the agency. The Department shall assist units of local government, upon request, if the unit of local government does not have the expertise to provide the required data and does not have the resources to procure outside experts.
- e) Upon completion, the agency shall submit the Detailed Action Report to the Department for the formulation of a biological opinion as to whether the proposed action, taken with its cumulative effects, will jeopardize the listed species present or have an adverse impact on its essential habitat. The biological opinion shall be completed within 60 calendar days of receipt of a completed Detailed Action Report. The biological opinion shall result in one of the following conclusions:
- 1) the action may promote the conservation of a listed species or its essential habitat, in which case the consultation process is terminated;
 - 2) the action is not likely to jeopardize a listed species or its essential habitat, in which case the

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- consultation process is terminated; or
- 3) the proposed action is likely to jeopardize a listed species or its essential habitat, in which case the consultation process shall continue.
 - f) If the biological opinion concludes that the proposed action is likely to have an adverse impact, recommendations to avoid these impacts shall be provided to the agency by the Department.
 - g) A meeting shall be scheduled with representatives of the agency and the Department to discuss practicable alternatives to the proposed action that would avoid, minimize, or compensate for the impacts.
 - h) After the consultation meetings have taken place to discuss practicable alternatives, the agency shall notify the Department in writing, stating its decision to proceed, modify, or forgo the action, and which, if any, of the alternatives included in the Detailed Action Report it is adopting.
 - i) If the Department disagrees with the agency's decision, it shall notify the agency in writing within 10 days.
 - j) It is desirable that disagreements which arise over an agency's response or procedural questions be resolved quickly and at the lowest possible level of agency involvement. For most actions, areas of disagreement should be resolved by middle and upper level management of the Department and agency involved. However, where there is failure to reach agreement, it may be necessary to refer the matter to the agency head for resolution.
- Section 1075.50 Special Circumstances
- a) When a particular action involves more than one agency, these agencies may, upon notification to the Department, fulfill their consultation requirements through a single lead agency. Factors relevant in determining appropriate lead agency include the time sequence in which agencies would become involved in the action, the magnitude of their respective involvement, and their relative expertise with respect to the environmental effects of the action.
 - b) In the case of complex actions, where the Department and

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the agency determine that additional information is needed concerning the listed species and/or the action, the period for the agency to prepare the Detailed Action Report, and the Department to formulate the biological opinion, may be extended by mutual agreement. During this extension, an agency shall make no irreversible or irretrievable commitments of resources that would foreclose implementation of any reasonable and prudent alternative prior to issuance of a biological opinion.

c) The consultation process shall be modified for the review of rezoning applications (See Section 1075.30(a)(8)):

- 1) The Report of Action shall be submitted for review as required in Section 1075.40(a).
- 2) If no listed species is known to be present, a letter of notification of the termination of the consultation process shall be sent within thirty days.
- 3) If a listed species is identified, the information shall be provided for consideration in the decision to grant the request for rezoning. This information shall be made a matter of public record.
- 4) The consultation process shall not proceed until development of that parcel is under consideration. At that time, the agency shall submit to the Department a Detailed Action Report and continue the consultation process as defined in Section 1075.40(c) through (j).
- d) The consultation process shall be initiated or a terminated consultation process shall be reopened by the Department or the agency if:
 - 1) New information reveals effects of the identified action that may adversely affect a listed species or its essential habitat in a manner not previously considered; or
 - 2) The proposed action is subsequently modified such that it may adversely affect a listed species or its essential habitat in a manner which was not considered in the consultation process; or
 - 3) Additional listed species or their essential habitat

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are identified within the vicinity of the action.

Section 1075.60 Emergencies

a) Two types of emergency conditions may exist that require special treatment:

- 1) Where emergency circumstances pose an immediate threat to human life, or severe loss of property is imminent from situations involving acts of God, disasters, casualties, or national defense or security emergencies, and action must be taken immediately, the agency can proceed without notifying the Department prior to taking action. The consultation process shall be initiated as soon as practicable after the emergency is under control, but not to exceed 30 calendar days. The agency shall submit a Detailed Action Report, which shall include information on the nature of the emergency actions, the justification for requiring immediate action, and any adverse impacts to a listed species or its essential habitat that may have resulted. The Department shall evaluate such information and issue a biological opinion, including the information and recommendations given during the emergency consultation.

- 2) Where emergency circumstances pose a threat to human life or loss of property and the action must commence within 30 days, the agency may request permission to commence the action without undergoing the consultation process prior to the action. The agency shall contact the Department prior to commencing the action and explain the nature of the problem. The Department shall determine whether a listed species is present within the vicinity of the action and notify the agency in writing. One of two courses of action shall then be taken:

- A) if no listed species or their essential habitats are present, the action may commence and the consultation process is terminated; or
- B) if a listed species or its essential habitat is present within the vicinity of the project, alternatives shall be discussed to avoid or minimize the adverse impacts prior to commencement of the action.

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Section 1075.70 Public Involvement

Provisions shall be made to inform the public of the actions of the Department under this part and to consider public comment. This may include, but is not limited to maintaining a list, as funds permit, by the Department for those persons wishing to receive notification of those projects involved in the consultation process under Section 1075.40(b)(2).

Section 1075.80 Alternative Action Guidelines

Alternative Action Guidelines - In order to assist state and local agencies in evaluating and selecting alternatives to proposed actions that adversely affect listed species or their habitat, the Department may prepare Alternative Action Guidelines for alternatives to a range of actions common to these agencies. These Guidelines shall propose practicable alternatives to actions affecting a listed species, while at the same time maintaining the project purpose to the greatest extent possible. These Guidelines shall serve to encourage the consideration of alternatives prior to initiation of the consultation process. They shall be made available upon request to all units of government as they are prepared.

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NOTICE OF ADOPTED AMENDMENTS

- 1) HEADING OF THE PART: Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Beaver and Woodchuck (Groundhog) Trapping

- 2) CODE CITATION: 17 Ill. Adm. Code 570

- 3) SECTION NUMBERS: ADOPTED ACTION:

570.20
570.30

Amendments
Amendments

- 4) STATUTORY AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33, and 3.5 of the Wildlife Code (Ill. Rev. Stat. 1989, ch. 61, pars. 1.2, 1.3, 2.30, 2.33 and 3.5).

- 5) EFFECTIVE DATE OF AMENDMENTS: December 3, 1990

- 6) DOES THIS RULEMAKING CONTAIN AN AUTOMATIC REPEAL DATE? No

- 7) DO THESE AMENDMENTS CONTAIN INCORPORATIONS BY REFERENCE? No

- 8) DATE FILED IN AGENCY'S PRINCIPAL OFFICE: November 27, 1990

- 9) NOTICE OF PROPOSAL PUBLISHED IN ILLINOIS REGISTER: August 17, 1990, 14 Ill. Reg. 13108

- 10) HAS JCAR ISSUED A STATEMENT OF OBJECTIONS TO THESE RULES: No

- 11) DIFFERENCES BETWEEN PROPOSAL AND FINAL VERSION: In the Authority Note, the reference to "Ill. Rev. Stat." was updated to the "1989" version.

- 12) HAVE ALL THE CHANGES AGREED UPON BY THE AGENCY AND JCAR BEEN MADE AS INDICATED IN THE AGREEMENT LETTER ISSUED BY JCAR? Yes

- 13) WILL THESE AMENDMENTS REPLACE AN EMERGENCY RULE (AMENDMENT, REPEALER) CURRENTLY IN EFFECT? No

- 14) ARE THERE ANY AMENDMENTS PENDING ON THIS PART? No

- 15) SUMMARY AND PURPOSE OF AMENDMENTS: When amendments to this Part were proposed in March, the Department neglected to change the closing date for the Beaver season. These amendments have been proposed to rectify this omission.

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- 16) INFORMATION AND QUESTIONS REGARDING THESE ADOPTED AMENDMENTS SHALL BE DIRECTED TO:

Jack Price
Department of Conservation
524 S. Second Street, Room 485
Springfield, IL 62701-1787

THE FULL TEXT OF THE ADOPTED AMENDMENTS BEGINS ON THE NEXT PAGE:

DEPARTMENT OF CONSERVATION

NOTICE OF ADOPTED AMENDMENTS

- TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF CONSERVATION
SUBCHAPTER b: FISH AND WILDLIFE

PART 570

MUSKRAT, MINK, RACCOON, OPOSSUM, STRIPED SKUNK,
WEASEL, RED FOX, GRAY FOX, COYOTE, BEAVER AND
WOODCHUCK (GROUNDHOG) TRAPPING

Section
570.10
570.20
570.30
570.40

Statewide Zones
Statewide Season Dates
Statewide Hours, Daily Limit and Possession Limit
Trapping Regulations on Department-Owned, -Leased or
-Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 2.30, 2.33, and 3.5 of the Wildlife Code (Ill. Rev. Stat. 1989, ch. 61, pars. 1.2, 1.3, 2.30, 2.33 and 3.5).

SOURCE: Adopted at 5 Ill. Reg. 9767, effective September 17, 1981; codified at 5 Ill. Reg. 10637; amended at 6 Ill. Reg. 10709, effective August 20, 1982; amended at 7 Ill. Reg. 10778, effective August 24, 1983; amended at 8 Ill. Reg. 21589, effective October 23, 1984; amended at 9 Ill. Reg. 15864, effective October 7, 1985; amended at 10 Ill. Reg. 16644, effective September 24, 1986; amended at 12 Ill. Reg. 12034, effective July 7, 1988; emergency amendments at 12 Ill. Reg. 16261, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 10589, effective June 15, 1989; amended at 14 Ill. Reg. 14775, effective September 4, 1990; amended at 14 Ill. Reg. 19854, effective December 3, 1990.

Section 570.20 Statewide Season Dates

- a) Muskrat, mink, raccoon, opossum, striped skunk and weasel
- 1) Northern Zone: November 15 through December 29.
 - 2) Southern Zone: November 25 through January 8.
- b) Red fox, gray fox and coyote
- 1) Northern Zone: November 25 through December 29.
 - 2) Southern Zone: November 25 through January 8.
- c) Beaver

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1) Northern Zone: November 15 through March 15, except those portions of Carroll, Whiteside and Rock Island counties lying west of Illinois Rt. 84 from Interstate 80 north to the Jo Daviess County line will be open to beaver trapping only from November 15 through December 29, inclusive.

2) Southern Zone: November 25 through March 15.

d) Woodchuck (Groundhog)

Northern and Southern Zones: June 1 through September 30.

(Source: Amended at 14 Ill. Reg. 19854, effective December 3, 1990)

Section 570.30 Statewide Hours, Daily Limit and Possession Limit

a) Muskrat, mink, raccoon, opossum, striped skunk and weasel

1) Trapping hours: November 15 in the Northern Zone and November 25 in the Southern Zone open for trapping at sunrise; December 29 in the Northern Zone and January 8 in the Southern Zone closed for trapping after sunset; otherwise, hours are unrestricted.

2) Daily and possession limit: None

b) Red fox, gray fox and coyote

1) Trapping hours: November 25 open for trapping at sunrise; December 29 in the Northern Zone and January 8 in the Southern Zone closed for trapping after sunset; otherwise, hours are unrestricted.

2) Daily and possession limit: None

c) Beaver

1) Trapping hours: November 15 in the Northern Zone and November 25 in the Southern Zone open for trapping at sunrise; March 15 closed for trapping after sunset except those portions of Carroll, Whiteside and Rock Island Counties lying west of Illinois Rt. 84 from Interstate 80 north to the Jo

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Daviess County line, are closed for trapping at December 29 after sunset; otherwise, hours are unrestricted.

2) Daily and possession limit: None

d) Woodchuck (groundhog)

1) Trapping hours: June 1 open for trapping at sunrise; September 30 closed for trapping after sunset; otherwise hours unrestricted.

2) Daily and possession limit: none.

(Source: Amended at 14 Ill. Reg. 19854, effective December 3, 1990)

- 1) HEADING OF THE PART: White-Tailed Deer Hunting by Use of Bow and Arrow
- 2) CODE CITATION: 17 Ill. Adm. Code 670
- 3) SECTION NUMBERS:
670.60
ADOPTED ACTION:
Amendments
- 4) STATUTORY AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36 of the Wildlife Code (Ill. Rev. Stat. 1989, ch. 61, pars. 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36).
- 5) EFFECTIVE DATE OF AMENDMENTS: December 3, 1990
- 6) DOES THIS RULEMAKING CONTAIN AN AUTOMATIC REPEAL DATE? No
- 7) DO THESE AMENDMENTS CONTAIN INCORPORATIONS BY REFERENCE? No
- 8) DATE FILED IN AGENCY'S PRINCIPAL OFFICE: November 27, 1990
- 9) NOTICE OF PROPOSAL PUBLISHED IN ILLINOIS REGISTER: July 20, 1990, 14 Ill. Reg. 11437
- 10) HAS JCAR ISSUED A STATEMENT OF OBJECTIONS TO THESE RULES: No
- 11) DIFFERENCES BETWEEN PROPOSAL AND FINAL VERSION:

In the Authority Note, "emergency expired March 13, 1982;" and "emergency expired May 13, 1983;" were added.

- 12) HAVE ALL THE CHANGES AGREED UPON BY THE AGENCY AND JCAR BEEN MADE AS INDICATED IN THE AGREEMENT LETTER ISSUED BY JCAR? Yes
- 13) WILL THESE AMENDMENTS REPLACE AN EMERGENCY RULE (AMENDMENT, REPEALER) CURRENTLY IN EFFECT? No
- 14) ARE THERE ANY AMENDMENTS PENDING ON THIS PART? No

- 15) SUMMARY AND PURPOSE OF AMENDMENTS: These amendments were proposed to reduce the archery deer season at Rock Cut State Park from 60 days to 40 days which will reduce the archery season at Rock Cut State Park by 1/3 in response to groups who oppose the 60-day hunting period.

- 16) INFORMATION AND QUESTIONS REGARDING THESE ADOPTED AMENDMENTS SHALL BE DIRECTED TO:

Jack Price
Department of Conservation
524 S. Second Street, Room 485
Springfield, IL 62701-1787

THE FULL TEXT OF THE ADOPTED AMENDMENTS BEGINS ON THE NEXT PAGE:

DEPARTMENT OF CONSERVATION

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF CONSERVATION
SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section

- 670.10 Statewide Open Seasons and Counties
- 670.20 Statewide Deer Permit Requirements
- 670.30 Statewide Legal Bow and Arrow
- 670.40 Statewide Deer Hunting Rules
- 670.50 Rejection of Application/Revocation of Permits
- 670.55 Reporting Harvest
- 670.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36 of the Wildlife Code (Ill. Rev. Stat. 1989, ch. 61, pars. 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36).

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990.

Section 670.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 (General Hunting and Trapping) apply in this Section, unless this Section is more restrictive.
- b) Statewide regulations as provided for in this Section shall apply except as noted in parentheses for the following sites:

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Carlyle Lake - Carlyle Lake Wildlife Management Area and Corps of Engineers managed lands (except Carlyle Lake Wildlife Management Area in the Subimpoundment Area, hunting closed three days prior to and during the regular waterfowl season).

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area, a part of this site, closed to hunting three days prior to the regular duck season).

Eldon Hazlet State Park (North of Allen's Branch and West of Peppenhorst Branch only)

Lake Shelbyville - Kaskaskia and West Okaw Fish and Wildlife Areas

Lake Kinkaid Fish & Wildlife Area

Little Black Slough State Natural Area

Lower Cache River State Natural Area

Mississippi River Pools 16, 17, 18, 21, 22, 24, 25 and 26

Panther Creek Conservation Area

Pike County Conservation Area (No hunting after November 30 in Area A)

Rend Lake Wildlife Management Area

Sangamon County Conservation Area

Sanganois Conservation Area

Shawnee National Forest, LaRue Scatters

Shawnee National Forest, Oakwood Bottoms

Union County Conservation Area - Firing Line Management Unit

Wildcat Hollow State Forest

- c) Statewide regulations as provided for in this Part shall apply except that all hunters must check in and check out

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and report deer harvested at the check station. Any other variations are given in parentheses for the following sites:

Argyle Lake State Park (season - October 15 - December 31)

Banner Marsh Fish and Wildlife Area (Season opens day after close of waterfowl season - December 31)

Big Bend Conservation Area

Big River State Forest

Castle Rock State Park (season - November 1 - December 31)

Crawford County Conservation Area

Fort de Chartres Historic Site

Franklin Creek State Park

Hamilton County Conservation Area

Johnson Sauk Trail State Park (October 1 - the day before the upland game season and on Mondays and Tuesdays during the upland game season)

Jubilee College State Park (closed the 1st weekend - Saturday and Sunday - of October)

Lee County Conservation Area (closed during permit pheasant season)

Mackinaw River State Fish and Wildlife Area

Marseilles Fish and Wildlife Area (no hunting on Friday, Saturday, or Sunday in October)

Marshall State Fish and Wildlife Area

Mississippi Palisades State Park (season - November 1 - December 31)

Randolph County Conservation Area

Red Hills State Park

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Rice Lake (season - the day after the close of the duck season - December 31)

Saline County Conservation Area

Sam Parr Fish and Wildlife Area

Shabbona Lake State Park (Indian Road Wildlife Management Area)

Silver Springs State Park (daily quota posted at site; quota filled on first-come, first-serve basis)

Tapley Woods State Natural Area

Turkey Bluffs Fish and Wildlife Area

Washington County Conservation Area (closed until 3 p.m. Wednesday - Sunday during pheasant, quail and rabbit season)

Wayne Fitzgerald State Recreation Area (season October 1 - November 5)

Woodford County Conservation Area

d) Statewide regulations as provided for in this Part shall apply for deer bow hunting except that hunters must check out and report their harvest; any reduced hunting season and/or daily hunting hours if required are given in parentheses for the following sites:

Anderson Lake Conservation Area

Ferne Clyffe State Park

Ft. Massac State Park

Giant City State Park

Horseshoe Lake Public Hunting Area (opens with the close of the quota zone goose season through December 31)

I-24 Wildlife Management Area

Iroquois County Conservation Area (closed Wednesday

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through Sunday of the permit pheasant season and during the non-permit pheasant season, except that hunting is permitted according to statewide regulations in the 80 acres north and east of Hooper Branch Nature Preserve)

Mermet Conservation Area

Pere Marquette State Park (except in designated areas where hunting dates are from October 30 through November 3 and from November 6 through November 10; number of hunters limited to 15 during each 5 day period; public drawing held at Region IV Office)

Pyramid State Park

Sam Dale Lake Conservation Area

Siloam Springs State Park

Trail of Tears State Forest

Union County Conservation Area Public Hunting Area (opens with the close of the quota zone goose season through December 31)

Weinberg-King State Park

- e) Statewide regulations as provided for in this Part shall apply and in addition hunters must obtain season permits at the site office or through the mail prior to hunting and must report success immediately after taking deer with additional requirements given in parentheses at the following sites:

Des Plaines Conservation Area (closed during the site's pheasant hunting season, except open on Mondays and Tuesdays only)

Kankakee River State Park (Bow deer hunters hunting south of the Kankakee River are required to wear a cap and upper outer garment of solid and vivid blaze orange of at least 400 square inches between the hours of 9:00 a.m. to 3:00 p.m. on those days when pheasant, quail and rabbit hunting is allowed; the area north of the Kankakee River is closed to all hunting after November 30)

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Mississippi Palisades State Park (season November 1 - December 31)

Moraine View State Park (closed Wednesday through Sunday during permit pheasant season)

Pekin Lake State Fish and Wildlife Area (no hunting south of Big Lick Creek)

Rock Cut State Park (~~November 1 - December 31~~ November 5 - December 14, closed Thanksgiving Day; hours 1/2 hour before sunrise to 10:00 a.m.)

Sand Ridge State Forest

Spring Lake Conservation Area

- f) Statewide regulations as provided for in this Part shall apply except that all hunters must check in and check out and report deer harvested at the check station. Any other variations are given in parentheses for the following site:

Sangchris Lake Fish and Wildlife Area (Hunting is prohibited within 200 yards of developed areas such as picnic and camping areas. The Peninsula and West Shoreline Areas will be open for hunting from October 1 until the opening day of waterfowl season and from the close of waterfowl season through December 31; closed also during the Youth Hunt. The North Mainland and East Mainland Areas will be open from October 1 through December 31; closed during the Youth Hunt. Areas open for hunting will include: Peninsula Area (DOC and Commonwealth Edison-owned portions of the middle and east peninsulas; boat access only). West Shoreline Area (west shoreline of the west arm of the lake between the site office and the west boat dock; the area immediately adjacent to the waterfowl refuge will be inviolate for the ten days before waterfowl season; foot access from site office or west boat dock area; boat access from west boat dock. North Mainland Area (north and east of both the site office and Deer Run Campground). East Mainland Area (the east Boat Dock area, Pheasant Run, and Maple Flats))

- g) Statewide regulations as provided for in this Part shall

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apply except that hunting will be permitted on Saturdays and Sundays only as announced by the Department of Conservation at the following site. Hunter quotas will be announced by public news release. The check station will open at 5:00 a.m. and all hunters must check in and exchange their hunting license for a back patch which must be worn at all times while in the field. All hunters must check out immediately after hunting. Parking is permitted at designated parking areas only.

Site "M" Cass County

- h) Statewide regulations as provided for in this Part shall apply, except bow hunting will be allowed only during the area legal waterfowl season. Hunting hours are from one half hour before sunrise to 12 noon, hunters must check out by 1 p.m. A drawing will be held at check station 90 minutes before sunrise; hunters must deposit their hunting license at check station before proceeding to the hunting area; hunters must wear DOC issued back patch while hunting. Only those hunters whose names have been drawn in the daily drawing will be allowed to hunt. Hunting is closed on Mondays and Tuesdays.

Heidecke State Fish and Wildlife Area

- i) Statewide regulations as provided for in this Part shall apply, except bow hunting will be allowed only on Mondays and Tuesdays, beginning on the Monday prior to the opening of permit pheasant hunting season and closing on the Tuesday following the close of the permit pheasant hunting season in designated areas only. Daily quota filled on first-come, first-serve basis. Hunting hours are from one-half hour before sunrise to 2:00 p.m. except on Christmas day when the area is closed to hunting. Hunters must check out by 3:00 p.m. Hunters must check in, check out, and report deer harvested at the main park entrance gatehouse.

Chain O'Lakes State Park

- j) Hunters must obtain a free permit from the site office. The permit must be in possession while hunting; failure to report harvest by February 15 will result in loss of hunting privileges at the site for the following year.

Clinton Lake State Recreation Area

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Eagle Creek State Park

Fox Ridge State Park

Hidden Springs State Forest

Lake Shelbyville Eagle Creek Wildlife Management Area

Ramsey Lake State Park

Stephen A. Forbes State Park

- k) Hunters must obtain free permit from site office; permit must be returned and harvest reported by February 15; failure to return permit will result in loss of hunting privileges the next season.

Kickapoo State Park

Middlefork Fish and Wildlife Area

(Source: Amended at 14 Ill. Reg. 19859, effective December 3, 1990)

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- 1) HEADING OF THE PART: White-Tailed Deer Hunting by Use of Firearms

- 2) CODE CITATION: 17 Ill. Adm. Code 650

- 3) SECTION NUMBERS: ADOPTED ACTION:

650.22 Amendments
650.40 Amendments

- 4) STATUTORY AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code (Ill. Rev. Stat. 1989, ch 61, pars. 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36).

- 5) EFFECTIVE DATE OF AMENDMENTS: December 3, 1990

- 6) DOES THIS RULEMAKING CONTAIN AN AUTOMATIC REPEAL DATE? No

- 7) DO THESE AMENDMENTS CONTAIN INCORPORATIONS BY REFERENCE? No

- 8) DATE FILED IN AGENCY'S PRINCIPAL OFFICE: November 27, 1990

- 9) NOTICE OF PROPOSAL PUBLISHED IN ILLINOIS REGISTER: August 17, 1990, 14 Ill. Reg. 13113

- 10) HAS JCER ISSUED A STATEMENT OF OBJECTIONS TO THESE RULES: No

- 11) DIFFERENCES BETWEEN PROPOSAL AND FINAL VERSION:

At the end of 650.40(a), a period was placed after the words "site specific regulations" and following that "(see Section 650.60)" was added.

- 12) HAVE ALL THE CHANGES AGREED UPON BY THE AGENCY AND JCER BEEN MADE AS INDICATED IN THE AGREEMENT LETTER ISSUED BY JCER? Yes

- 13) WILL THESE AMENDMENTS REPLACE AN EMERGENCY RULE (AMENDMENT, REPEALER) CURRENTLY IN EFFECT? No

- 14) ARE THERE ANY AMENDMENTS PENDING ON THIS PART? No

- 15) SUMMARY AND PURPOSE OF AMENDMENTS: These amendments were promulgated to clarify language regarding the antlerless only permit and to add a site to the special firearm deer season.

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- 16) INFORMATION AND QUESTIONS REGARDING THESE ADOPTED AMENDMENTS SHALL BE DIRECTED TO:

Jack Price
Department of Conservation
524 S. Second Street, Room 485
Springfield, IL 62701-1787

THE FULL TEXT OF THE ADOPTED AMENDMENTS BEGINS ON THE NEXT PAGE:

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TITLE 17: CONSERVATION
 CHAPTER 1: DEPARTMENT OF CONSERVATION
 SUBCHAPTER b: FISH AND WILDLIFE

PART 650

WHITE-TAILED DEER HUNTING BY USE OF FIREARMS

Section	
650.10	Statewide Season
650.20	Statewide Deer Permit Requirements
650.21	Deer Permit Requirements - Landowner/Tenant Permits - Paid and Free
650.22	Deer Permit Requirements - Special Hunts
650.23	Deer Permit Requirements - Group Hunt
650.30	Statewide Firearms Requirements
650.40	Statewide Deer Hunting Rules
650.50	Rejection of Application/Revocation of Permits
650.60	Regulations at Various Department-Owned or -Managed Sites
650.70	Special Extended Season Firearm Deer Hunt (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code (Ill. Rev. Stat. 1989, ch 61, pars. 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36).

SOURCE: Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendments at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3044, effective February 3, 1987; amended at 11 Ill. Reg. 9564, effective May 5, 1987; amended at 12 Ill. Reg. 8003, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective July 11, 1988; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12430, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990.

Section 650.22 Deer Permit Requirements - Special Hunts

- a) Special hunts are regulated by the agency which manages the property. The Permit Office only issues deer hunting permits for Crab Orchard, Shelbyville Wildlife Management Area - (Moultrie County), Fox Ridge State Park - (Coles County), Hidden Springs State Forest - (Shelby County), Eagle Creek Wildlife Management Area - (Shelby County),

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Sand Ridge State Forest - (Mason County), Des Plaines Conservation Area - (Will County January 11, 12 and 13, 1991 only), Cilco Duck Creek - (Fulton County first season only), Delair Division of the Mark Twain National Wildlife Refuge (special firearm deer season, January 12, 13, 19, 20, 26, 27, 1991. Information is available from the U.S. Fish and Wildlife Service, P.O. Box 88, Annada, MO 53330. The Department of Conservation allocates Firearm permits for the areas listed below through a computerized drawing. Hunters wishing to hunt special conservation areas other than those listed in this subsection must first acquire a deer permit for the county in which the conservation area is located and then apply for the specific site drawing. (See Section 650.60 for a list of Conservation areas and permit and specific site application procedures).

- 1) Crab Orchard - Permits for Crab Orchard are allocated separately for each of the first and second three-day seasons. Each three-day season will be considered as a choice. Applicant must indicate in the First Choice County or Hunt Area field if they are applying for the first or second season on Crab Orchard (for example: Applicants should show "Crab Orchard 1st Season" or "Crab Orchard 2nd Season") or the application will be returned.

- 2) The preference system does not include, Shelbyville Wildlife Management Area - (Moultrie County), Fox Ridge State Park - (Coles County), Hidden Springs State Forest - (Shelby County), Eagle Creek Wildlife Management Area - (Shelby County), Sand Ridge State Forest - (Mason County), Des Plaines Conservation Area - (Will County January 11, 12 and 13, 1991 only), Cilco Duck Creek - (Fulton County first season) and Crab Orchard.

- b) Each applicant must enclose a separate \$15.00 fee (check or money order) payable to the Department of Conservation, or the application will be RETURNED. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 14 Ill. Reg. 19869, effective December 3, 1990)

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Section 650.40 Statewide Deer Hunting Rules

- a) Bag limits (per legally authorized permit): an either sex firearm permit holder, including a Landowner/Tenant Firearm permit holder, is allowed one deer of either sex during the legal firearm season. An Antlered-Only firearm permit holder is allowed to take a deer having at least one antler of a length of 3 inches or more during the legal firearm season. ~~An antler-less-only permit holder is allowed to take a deer that does not have any antler of a length of 3" or more during the legal firearm deer season or as identified in site specific regulations. An antlerless only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long during the legal firearm deer season or as identified in site specific regulations. (See Section 650.60).~~

- b) Totally white white-tailed deer are protected by Illinois Law and are illegal to kill. (Sec. 2.26 of the Wildlife Code, Ill. Rev. Stat. 1989, ch. 61, par. 2.24)

- c) The Firearm Deer Hunting Permit shall be signed, date of birth, Firearm Owners Identification number, hunting license number and physical description recorded on the permit and worn on the back while hunting with hunter's name and address plainly visible.

- d) The leg tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the leg tag to the deer. Such leg tag shall remain with the deer carcass while being processed for consumption or other purposes. The leg tag can be discarded only after the deer has been processed, prepared for consumption, and is at the legal residence of the person who legally took or possessed the deer. The head/antler or hide tag shall be attached to the head/antler and hide when detached from the carcass. The head/antler and hide tags shall remain attached to the head/antler or hide as long as the head/antler or hide remains in green state, or when in a commercial business for the purpose of taxidermy, tanning, or other manufacturing processing. Deer shall be checked in by the hunter in person by 7:00 p.m., the same day it is killed; either at the county check station or the nearest check station to the kill site.

- e) Hunters shall not have in their possession, any deer permit issued to another person, during deer hunting hours (permits are non-transferable).

- f) An Antlered-Only Deer permit authorizes the holder to take only a deer with at least one antler of a length of 3 inches or more. An antler-less only permit authorizes the holder to take only a deer not having any antler of 3" or more. These permits will be issued only in selected counties having large deer herds and related crop damage and will provide additional hunters the opportunity to hunt in these counties.

- g) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 14 Ill. Reg. 19869, effective December 3, 1990)

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- 1) Heading of the Part: RIGHTS AND PRIVILEGES
- 2) Code Citation: 20 Ill. Adm. Code 525
- 3) Section Numbers: Adopted Action:
- | | |
|---------|-------|
| 525.110 | Amend |
| 525.130 | Amend |
| 525.140 | Amend |
| 525.210 | Amend |
| 525.230 | Amend |
- 4) Statutory Authority: Implementing and authorized by Sections 3-2-2, 3-7-1, 3-7-2, and 3-7-4 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2, 1003-7-1, 1003-7-2, and 1003-7-4).
- 5) Effective Date of Amendments: December 1, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes
X No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: November 26, 1990
- 9) Notice(s) of Proposal Published in Illinois Register:
August 3, 1990 14 Ill. Reg. 12345
(issues date)

- 10) Has JCAR issued a Statement of Objections to this(these) rule(s)? No.
- 11) Difference(s) between proposal and final version: In Section 525.130, the word "section" has been capitalized. In Section 525.230(e), the new language at the end of the existing subsection has been changed to: "The names of individuals shall be deleted from the file copies maintained in the legal library. The fact that a deletion has been made shall be noted on the copy."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will this amendment replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments clarify and further define existing rules in regard to processing mail; include new

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provisions for processing mail of committed persons who are temporarily absent from the facility; require the contents of packages to be identified on the outside of the package; and provide for names of individuals to be deleted from copies of Publication Review Committee proceedings maintained for access by committed persons.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Name: William H. Craine, Ph.D., Deputy Director
Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: 217/522-2666

The full text of the Adopted Amendments begins on the next page:

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONS

PART 525
RIGHTS AND PRIVILEGES
SUBPART A: VISITATION

Section	Applicability
525.10	Definitions
525.12	Responsibilities
525.15	Visiting Privileges
525.20	Clergy Visitation
525.30	Attorney Visitation - Adult and Community Services Divisions
525.40	Attorney Visitation - Juvenile Division (Court Agreement)
525.50	Restriction of Visitors
525.60	

SUBPART B: MAIL AND TELEPHONE CALLS

Section	Applicability
525.100	Definitions
525.110	Responsibilities
525.115	Processing of Mail
525.120	Outgoing Mail
525.130	Incoming Mail
525.140	Telephone Privileges
525.150	

SUBPART C: PUBLICATIONS

Section	Applicability
525.200	Definitions
525.202	Responsibilities
525.205	General Guidelines
525.210	Publications Review Committee
525.220	Appeal Process for Non-approved Publications
525.230	

SUBPART D: MARRIAGE OF COMMITTED PERSONS

Section	Applicability
525.300	Definitions
525.302	Responsibilities
525.305	Request for Permission to Marry
525.310	

AUTHORITY: Implementing Sections 3-2-2(d) and (i), 3-7-1, 3-7-2, 3-7-4, 3-8-7 and 3-10-8 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2(a) and (i), 1003-7-1, 1003-7-2, 1003-7-4, 1003-8-7 and 1003-10-8) and Section 1-3(9) of the Juvenile Court Act of 1987 (Ill. Rev. Stat. 1989, ch. 37, par. 801-3(9)) and authorized by Sections 3-2-2, 3-7-1, and 3-7-4 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2, 1003-7-1, and 1003-7-4). Subparts A and C are also implementing Consent Decrees (Tillman vs. Rowe, #77 C 1008, N.D. Ill., 1977 and Green vs. Snelaff, #71 C 1403, N.D. Ill., 1973 and amended 1976).

SOURCE: Adopted at 8 Ill. Reg. 14598, effective August 1, 1984; amended at 9 Ill. Reg. 10728, effective August 1, 1985; amended at 11 Ill. Reg. 16134, effective November 1, 1987; amended at 12 Ill. Reg. 9664, effective July 1, 1988; amended at 14 Ill. Reg. 5114, effective April 1, 1990; amended at 14 Ill. Reg. 19875, effective December 1, 1990.

SUBPART B: MAIL AND TELEPHONE CALLS**Section 525.110 Definitions**

- a) "Chief Administrative Officer" means the highest ranking official of a correctional facility.
- b) "Department" means the Department of Corrections.
- c) "Director" means the Director of the Department of Corrections.
- d) "Privileged mail" means mail to and from the following:

- 1) The Director;
- 2) Deputy Directors and Assistant Deputy Directors of the Department;
- 3) Members of the Office of Advocacy Services;
- 4) Members of the Administrative Review Board;
- 5) Members of the Prisoner Review Board;
- 6) The Governor of Illinois;
- 7) Federal, Illinois or local Illinois legislators;
- 8) Chief Executive Officers of federal, state or local law enforcement agencies the Federal Bureau of Investigations, the Drug Enforcement Administration, the Criminal Division of

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the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

- 9) Officials of the U.S. Department of Justice John Howard Association; and

- 10) Legal mail.

- e) "Legal mail" means mail to and from the following:

- 1) Registered Attorneys;
- 2) The Illinois Attorney General;
- 3) Judges or magistrates of any court or the Illinois Court of Claims; and
- 4) Any organization which provides direct legal representation and services to committed persons, but not including organizations which provide referrals to attorneys such as, bar associations.

(Source: Amended at 14 Ill. Reg. 19875, effective December 1, 1990)

Section 525.130 Outgoing Mail

This section applies only to the Adult and Juvenile Divisions.

- a) Committed persons shall be permitted to mail at State expense the equivalent of three one-ounce, first-class letters to the continental United States each week. This allowance may not be transferred from one committed person to another, nor may it accumulate from one week to another.
- b) Committed persons shall be permitted to send additional letters if they have sufficient funds in their trust fund accounts and attach signed money vouchers to cover the postage. Committed persons with insufficient money in their trust fund accounts shall be permitted to send reasonable amounts of legal mail and mail to clerks of any court or the Illinois Court of Claims and to certified court reporters at State expense. All other mail will be sent only if the committed person has sufficient funds to pay the postage.
- c) Committed persons must clearly mark all outgoing mail with their name and in the Adult and Community Services Divisions with their institutional number. Mail that is not properly marked, including privileged mail, shall be opened and returned to the sender if the

sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.

- d) Outgoing privileged mail must be clearly marked as "privileged" and sealed by the committed person. Outgoing mail which is clearly marked as privileged and addressed to a privileged party may not be opened for inspection.
- e) With the exception of privileged mail, all mail shall be unsealed when collected or placed in housing unit mailboxes. Sealed mail that is not privileged will be opened and returned to the sender if the sender's identity can be determined. If the sender's identity cannot be determined, the mail shall be destroyed.
- f) Each correctional facility shall establish procedures for the collection of outgoing mail. Collections shall be made daily, Monday through Friday, except on State holidays. Every effort shall be made to ensure that mail is delivered to the U.S. Postal Service on the same day.
- g) Outgoing non-privileged mail shall be inspected for contraband. If a letter from a committed person is confiscated because it contains contraband, the committed person shall be notified promptly in writing.
- h) Department employees may spot check and read outgoing non-privileged mail. Outgoing non-privileged mail or portions thereof may be reproduced or withheld from delivery if it presents a threat to security or safety, including the following:
 - 1) The letter contains threats of physical harm against any person or threats of criminal activity;
 - 2) The letter contains threats of blackmail or extortion;
 - 3) The letter contains information regarding sending contraband into or out of the facility, plans to escape, or plans to engage in criminal activity;
 - 4) The letter is in code and its contents cannot be understood by correctional staff;
 - 5) The letter violates any departmental rules or contains plans to engage in activities in violation of departmental or institutional rules;
 - 6) The letter solicits gifts, goods or money from other than family members;

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- 7) The letter contains information which if communicated might result in physical harm to another;
- 8) The letter contains unauthorized correspondence with another committed person; or
- 9) The letter or contents thereof constitute a violation of State or federal law.
- i) Any outgoing letter may be stopped and returned to the sender if the person to whom it is addressed (or a parent or guardian, if the addressee is a minor or incompetent) has notified the Chief Administrative Officer in writing that he does not wish to receive mail from the committed person. This rule shall not be construed to prevent a committed person from corresponding with his children unless his parental rights have been terminated.
- j) If a committed person is prohibited from sending a letter or portions thereof, he shall be informed in writing of the decision.
- k) Material from a letter which violates Section 525.130(h) of this Subpart may be placed in a committed person's master file.
- l) Committed persons may not send packages without approval of the Chief Administrative Officer, whose decision shall be based on administrative, safety, and security considerations.

(Source: Amended at 14 Ill. Reg. 19875 ____, effective December 1, 1990)

Section 525.140 Incoming Mail

- a) Incoming privileged mail must be clearly marked as "privileged" and be clearly marked with the name, title and address of the sender.
- b) Incoming privileged mail may be opened in the presence of the committed person to whom it is addressed to inspect for contraband, to verify the identity of the sender, and to determine that nothing other than legal or official matter is enclosed.
- c) Incoming privileged mail may contain communications only from the privileged correspondent whose name and address appear on the envelope. If non-privileged material or correspondence from a third party is found to be enclosed, such material shall be treated as non-privileged mail.
- d) All incoming non-privileged mail shall be opened and inspected for contraband.

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- e) Cashier's checks, money orders and business checks subject to the restrictions imposed by 20 Ill. Adm. Code 205 shall be deposited in the committed person's trust fund account, with a record made of the sender's name, the amount received, and the date. For purposes of this Section a business check shall mean a check written on any agency or firm's account and any check written on an employer's personal account for wages due a person assigned to the Community Services Division. The committed person shall be notified of all monies received and deposited in his trust fund account. However, any checks or money orders which exceed the limitation on the amounts (20 Ill. Adm. Code 205) shall be returned to the sender and the committed person shall be notified.
- f) Personal checks and cash shall be returned to the sender and the sender shall be notified that funds cannot be received in that form.
- g) Correctional officials may spot check and read incoming non-privileged mail. Incoming mail or portions thereof may be inspected, reproduced or withheld from delivery for any of the reasons listed in Section 525.130(h) of this Subpart or if determined to be obscene by the Publications Review Committee in accordance with Subpart C of this Part.
- h) When a committed person is prohibited from receiving a letter or portions thereof, the committed person and the sender shall be notified in writing of the decision.
- i) If a committed person has been transferred or released, first class mail shall be forwarded to him if his address is known. If no forwarding address is available, the mail shall be returned to the sender.
- j) If a committed person has been absent from the facility on a furlough or pursuant to writ, his mail shall be held at the facility for a period of one month, unless the committed person has made a written request to the Chief Administrative Officer to have his mail forwarded to another address. At the conclusion of the month, first class mail shall be forwarded to the committed person's address, if known, or returned to the sender, unless alternative arrangements have been made.
- k) Committed persons may receive books and periodicals in accordance with Subpart C of this Part, and may receive manual typewriters ordered directly from a supplier through the commissary. Committed persons in the Adult and Juvenile Divisions shall not be permitted to receive catalogs, except catalogs for books or periodicals. Other packages may be received only as approved by

the Chief Administrative Officer. The contents of all packages other than packages sent from pre-approved vendors, including packages containing books and periodicals, must be clearly listed on the outside of the package. Packages which do not contain a description of the contents shall be returned to the sender. All packages shall be opened and searched prior to delivery.

(Source: Amended at 14 Ill. Reg. 19875, effective December 1, 1990)

SUBPART C: PUBLICATIONS

Section 525.210 General Guidelines

- a) Each facility shall maintain a current approved list of publications. Additions to this list, including all books, magazines, newspapers and other publications found acceptable by the Publications Review Committee, shall be made every three months.
- b) This Subpart, the updated approved list, further explication or interpretation of institutional policies regarding publications, and the current names and positions held by each member of the Publications Review Committee shall be prominently posted.
- c) Each committed person may subscribe to, solicit free copies of, or buy individual copies of approved newspapers, magazines, books and other publications for delivery to the facility by placing a request with the Chief Administrative Officer. A member of the individual's family or a friend may also order, solicit or bring approved publications to the facility.
- d) All approved publications shall be delivered promptly after directly to the individual with his daily mail or the same day they are received in the facility mail room. This time may be extended only in order to perform necessary inspection for contraband.
- e) Publications determined to be unacceptable shall be disposed of as contraband in accordance with 20 Ill. Adm. Code 501: Subpart C or shall be returned to the sender at the sender's expense.

(Source: Amended at 14 Ill. Reg. 19875, effective December 1, 1990)

Section 525.230 Appeal Process for Non-approved Publications

- a) When a requested publication is not on the approved list, the Chief Administrative Officer shall transmit the request to the Publications Review Committee for review. If the Committee decides that the requested material is acceptable, it shall respond within seven working days, whenever possible.

- b) If a review is initiated, the Committee shall order two issues of the periodical or a copy of the book requested, if such material is available and/or accessible. At the same time, the committee shall immediately notify the committed person in writing that his request is under review, and shall indicate in the notice that:

- 1) He has the right to submit a written supportive statement, book reviews or opinions of other individuals with regard to the merits of the publication in question.
 - 2) He may correspond with five publishers, reviewers, experts, critics or other persons concerning the requested publication using a form letter provided by the Committee. If an individual is unable to pay the postage for such correspondence, it shall be sent at the facility's expense.
 - 3) He may request and, at the Committee's discretion, he may be allowed to appear before the Committee when the circumstances warrant an oral presentation.
 - 4) He may ask for assistance, information regarding the Committee's procedure, or a further specification of the alleged offending portions of the publication in question. One or more members of the Committee may confer with him in his cell or any other place of mutual convenience.
 - 5) The Committee shall complete its review and render its final decision within four weeks, unless delay is caused by circumstances beyond its control.
 - 6) He may have an extension of time to prepare his presentation. When an extension of time is granted, the four-week review period shall be suspended until after the last day of the extension or the date on which he informs the committee in writing that his preparation is concluded, whichever is sooner.
- c) The Committee shall only prohibit acceptance of any material it finds to be:
 - 1) Obscene, according to the definition of obscenity established by the U.S. Supreme Court; or
 - 2) A clear and present danger to the physical safety and security of persons and property within the facility.
 - d) If a request for a publication is denied, the Committee shall prepare a written statement explaining why the material is

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unacceptable. The statement shall explain briefly how the requested material violated the standards for review and shall reasonably identify the offending portions of the publication. Copies of this statement shall be forwarded to the requesting individual and to the Chief Administrative Officer.

- e) The Publications Review Committee shall record and maintain for a period of five years a written summary of all proceedings in review, conferences and meetings, and shall preserve file copies of all notices and other documents pertinent to the case. These files shall be kept in an area of the facility readily accessible to individuals using the legal library. The names of individuals shall be deleted from the file copies maintained in the legal library. The fact that a deletion has been made shall be noted on the copy.

- f) The Chief Administrative Officer shall review all recommendations of the Committee. When the Chief Administrative Officer overrules the Committee's decision, he must advise the Director.

- g) Once a publication has been approved by the Committee and the Chief Administrative Officer, it shall not be excluded because an occasional feature violates the standards for review.

- 1) The offending issue of the periodical, upon determination of unacceptability by the Committee, shall be retained in the Committee's file.

- 2) If, over a period of time, the record indicates that the characteristic content of an approved publication has changed, it shall be reviewed again by the Committee. Notice of such review shall be given to all individuals then receiving the publication and they shall be afforded a hearing.

- h) If, over a period of time, the characteristic content of a disapproved publication changes so as to warrant its acceptability, the Committee shall again review the publication upon request of any individual.

(Source: Amended at 14 Ill. Reg. 19875, effective December 1, 1990)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Payment Of Unemployment Contributions, Interest And Penalties

- 2) Code Citation: 56 Ill. Adm. Code 2765

- 3) Section Number: Adopted Action:
2765.18 New Section
2765.210 New Section

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 48, pars. 322, 382, 420, 431, 432, 433, 442, 451, 550, 551, 552, 553, 554, 555, 572.1, 573, 577, 578, 579, 610, 611 and 750.

- 5) Effective Date of the Amendment: November 29, 1990.

- 6) Does this rulemaking contain an automatic repeal date? No.

- 7) Does this Rule contain an incorporation by reference? No.

- 8) Date filed in Agency's Principal Office: November 29, 1990.

- 9) Notice of Proposal published in Illinois Register:
August 17, 1990 at 14 Ill. Reg. 13118.

- 10) Has JCAR issued a Statement of Objection to these Rules? No.

- 11) Difference between proposal and final version: Paragraph 577 and Section 1507 are added to the Statutory Authority, as is a closing parenthesis; in Section 2765.18, "is required" is changed to "shall be required", "becomes" is changed to "become" and "will" is changed to "shall" after "transferee".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

- 13) Will this replace an emergency rule currently in effect? No.

- 14) Are there any amendments pending on this Part? Yes.

Section Numbers Proposed Action Illinois Register Citation
2765.325 Amendment August 31, 1990
(14 Ill. Reg. 13910)

DEPARTMENT OF EMPLOYMENT SECURITY

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- 15) Summary and purpose of the rules: This amendment sets forth the Director's interpretation of Section 2600 of the Act as providing that a purchaser or transferee of substantially all or any class of the assets of an employing unit which itself had become personally liable for the contributions, interest and penalties due and unpaid by a transferor or seller to it shall also be personally liable for those same due and unpaid contributions, interest and penalties.

This proposed amendment also provides that, if the joint application for partial transfer of an experience rating record, as provided for in Section 1507 of the Act, is filed, such application may not be later withdrawn if the parties to the application later decide that such application was not in their best interests.

- 16) Information and Questions regarding these Adopted Amendments may be addressed to:

Stella Adams Cuthbert, Commissioner
Illinois Department of Employment Security
401 South State Street - 2 South
Chicago, Illinois 60605
312/793-4240

The full Text of the Adopted Amendments begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765

PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS

Section	
2765.1	Unemployment Contributions Not Deductible From Wages
2765.5	Definitions
2765.10	Payment Of Contributions
2765.15	Liability For The Entire Year
2765.18	Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller Or Transferor Contributions Of Employers By Election
2765.20	Comments In Lieu Of Contributions
2765.30	When Payments In Lieu Of Contributions Payable
2765.35	Payments When Reimbursable Employer Becomes Contributory
2765.40	Payments When Contributory Employer Becomes Reimbursable
2765.45	Application Of Payment
2765.50	Accrual Of Interest
2765.55	Imposition Of Penalty
2765.60	Payment Or Filing By Mail
2765.63	When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
2765.65	Waiver Of Interest Or Penalty
2765.66	Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988
2765.68	Waiver Of Penalty For Certain Employers For 1987 And Thereafter Wage Reports (UC-3/40)
2765.70	Time For Paying Or Filing Delayed Payment Or Report
2765.75	Application For Waiver
2765.80	Approval Of Application For Waiver
2765.85	Insufficient Or Incomplete Application
2765.90	Disapproval Of Application Conclusive
2765.95	Appeal And Hearing

SUBPART B: EXPERIENCE RATING

2765.200	Effect Of A Successor Employing Unit's Failure To Notify The Director Of Its Succession
2765.210	Prohibition On Withdrawal Of Joint Application For Partial Transfer Of Experience Rating Record

DEPARTMENT OF EMPLOYMENT SECURITY

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SUBPART C: BENEFIT CHARGES

Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act

- 2765.325 Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
- 2765.326 Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act
- 2765.332 Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act
- 2765.333 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act
- 2765.334 Procedural Requirements And Right Of Appeal
- 2765.335

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600 of the Unemployment Insurance Act (Ill. Rev. Stat. 1989, ch. 48, pars. 322, 382, 420, 431, 432, 433, 442, 451, 550, 551, 552, 553, 554, 555, 572.1, 573, 577, 578, 579, 610, 611 and 750).

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendments at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days, expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 13 Ill. Reg. 17342, effective November 28, 1988; emergency amendments at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective Nov. 29, 1990.

SUBPART A: GENERAL PROVISIONS

Section 2765.18 Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller Or Transferor

Pursuant to Section 2600 of the Act (Ill. Rev. Stat. 1989, ch. 48,

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par. 750), whenever a purchaser or transferee acquires substantially all or a class of the assets (as enumerated in that Section of the Act), it shall be required to follow a procedure set forth in the Act to insure that any contributions, interest and penalties which are due and unpaid are paid. If such contributions, penalties and interest are not so paid, the purchaser or transferee become personally liable for these contributions, the interest and the penalties. Since these amounts are then the personal liabilities of the purchaser or transferee, if the purchaser or transferee then sells or transfers substantially all or a class of the assets (as enumerated in that Section of the Act), the subsequent purchaser or transferee shall also become personally liable for these same amounts if it does not follow the procedure set forth in the Act to insure that any contributions, interest and penalties which are due and unpaid are paid.

Example: Company B purchases all of the assets of Company A which owes contributions, interest and penalties to the Director. Company B does not follow the statutory procedure to insure that such amounts have been paid. Therefore, Company B is personally liable for these amounts. Company C then sells all of its assets to Company C. Company C does not follow the statutory procedure to insure that the amounts now owed by Company B have been paid. Company C is now also personally liable for these amounts. Companies A, B and C are jointly and severally liable for the amount originally owed by Company A, and the Director may attempt collection from Company A, Company B or Company C.

(Source: Added at 14 Ill. Reg. 19886, effective Nov. 29, 1990)

SUBPART B: EXPERIENCE RATING

Section 2765.210 Prohibition On Withdrawal Of Joint Application For Partial Transfer Of Experience Rating Record

A joint application for partial transfer of the predecessor's experience record, pursuant to Section 1507B of the Act (Ill. Rev. Stat. 1989, ch. 48, par. 577B), cannot be withdrawn after it has been submitted to the Director.

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- a) Example: After filing a joint application for partial transfer of the predecessor's experience rating record, one of the applicants determines that the partial transfer will result in an increase in its contribution rate. Notwithstanding the increase in its contribution rate, the applicant cannot request to withdraw its joint application for the partial transfer of the predecessor's experience rating record.
- b) Example: After the filing of a joint application for partial transfer of the predecessor's experience rating record, the Agency determines that the provisions of Section 1507B of the Act are met but that an affiliation (as described in the last paragraph of Section 1507B of the Act) exists, an applicant cannot request to withdraw its joint application for the partial transfer of the predecessor's experience rating record.

(Source: Added at 14 Ill. Reg. 19886, effective November 29, 1990)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Pre-Existing Illness
- 2) Code Citation: 50 Ill. Adm. Code 2005
- 3) Section Number: Adopted Action:
2005.30 Amended
- 4) Statutory Authority: Implementing Sections 143, 154 and 359a, and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, pars. 755, 766, 971a and 1013).
- 5) Effective Date of Amendments: December 4, 1990
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this rulemaking contain incorporations by reference? No.
- 8) Date filed in Agency's Principal Office: November 28, 1990
- 9) Notice of Proposal Published in Illinois Register:
July 13, 1990, 14 Ill. Reg. 11071
- 10) Has JCAR issued a Statement of Objections to this rule? No.
- 11) Difference(s) between proposal and final version: The main source note has been rewritten in an abbreviated fashion.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will this rulemaking replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of rulemaking: This rule is being amended so that it is consistent with other Departmental rules.

16) Information and questions regarding this adopted amendment shall be directed to:

Chuck Budinger
Department of Insurance
320 West Washington
Springfield, Illinois 62767

The full text of the Adopted Amendments begins on the next page.

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2005
PRE-EXISTING ILLNESS

Section
2005.10
2005.20
2005.30
2005.40
2005.50
2005.60

Authority
Applicability
The Minimum Definition of Pre-existing Illness or
Pre-existing Condition
Application of the Definition
Policy Form Requirements
Effective Date

AUTHORITY: Implementing Sections 143, 154, and 359a of the Illinois Insurance Code (Ill. Rev. Stat., ch. 73, pars. 755, 766, 971a and 1013).

SOURCE: Filed October 16, 1974, effective October 30, 1974; codified at 7 Ill. Reg. 3009; amended at 14 Ill. Reg. 19892 effective December 4, 1990.

Section 2005.30 The Minimum Definition of Pre-existing Illness or Pre-existing Condition

a) A "pre-existing illness" or "pre-existing condition" as constructed by the definition of sickness and the provisions for Time Limit on Certain Defenses in an accident and health insurance policy issued after the effective date of this Part shall mean any disease, illness, sickness, malady or condition which was:

1) diagnosed or treated by a legally qualified physician prior to the effective date of coverage for the insured with consultation, advice or treatment by a legally qualified physician occurring within 24 months prior to the effective date of coverage for the insured; or

2) diagnosed or treated by a legally qualified physician prior to the effective date of coverage for the insured; but a legally qualified physician

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demonstrates that there is a reasonable medical question that the disease, illness, sickness, malady or condition involved did continue within 24 months prior to the effective date of coverage for the insured without the necessity of consultation, advice or treatment by a legally qualified physician; or

- 3) evident because there was a clear, distinct symptom or symptoms of the disease, illness, sickness, malady or condition demonstrable prior to the effective date of coverage for the insured within 12 months prior to the effective date of coverage for the insured and in which, in the opinion of a legally qualified physician, would;

A) indicate that the diseases, illness, sickness, malady or condition probably began and manifested itself before the effective date of the coverage for the insured, and

B) would cause an ordinarily prudent person to seek diagnosis, care or treatment.

- b) The above definition is the minimum required. Any definition more favorable to the insured may be used. The time limitations in this Section 2095-30 do not apply to the company's underwriting standards such as the investigation of an applicant's health history.

(Source: Amended at 14 Ill. Reg. 19892 effective December 4, 1990)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part:

General Procedures

- 2) Code Citation:

80 Ill. Adm. Code 1200

- 3) Section Numbers:

1200.10
1200.20
1200.30
1200.90

Adopted Action:

Amended
Amended
Amended
Amended

- 4) Statutory Authority:

Implementing and authorized by the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1601 et seq.).

- 5) Effective Date of Amendments: November 30, 1990

- 6) Does this rulemaking contain an automatic repeal date?

No

- 7) Do these amendments contain any incorporations by reference?

No

- 8) Date filed in Agency's Principal Office?

November 15, 1990

- 9) Notice of Proposal Published in Illinois Register?

May 25, 1990, 14 Ill. Reg. 7693

- 10) Has JCAR issued a Statement of Objections to these Amendments?

No

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NOTICE OF ADOPTED AMENDMENTS

11) Differences between proposal and final version?

- a) Deleted "except when specifically requested by the Board" from Section 1200.20(e);
- b) Replaced "will" with "shall" in Section 1200.20(e); and
- c) Corrected any inaccurate statutory citations.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

Yes

13) Will these amendments replace an emergency amendment currently in effect?

No

14) Are there any amendments pending on this part?

No

15) Summary and Purpose of Amendments?

- a) To provide that telefaxed documents would not be accepted for formal filings;
- b) To provide a timetable for when subpoena requests should be submitted to the Board; and
- c) Make technical corrections such as statutory citations.

16) Information and questions regarding these adopted amendments shall be directed to:

Brian E. Reynolds
Executive Director
Illinois State Labor Relations Board
320 West Washington Street, Suite 500
Springfield, Illinois 62701

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NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE C: LABOR RELATIONS

CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/

ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 1200

GENERAL PROCEDURES

Section	
1200.10	Definitions
1200.20	Filing and Service of Documents
1200.30	Computation and Extensions of Time
1200.40	Hearing Officers
1200.50	Recording of Hearings
1200.60	Oral Argument and Briefs
1200.70	Representation of Parties
1200.80	Ex Parte Communications
1200.90	Subpoenas
1200.100	Transfer of Jurisdiction
1200.105	Consolidation of Proceedings
1200.110	Amicus Curiae Briefs
1200.120	Voluntary Settlement or Adjustment of Disputes
1200.130	Rules of Evidence
1200.140	Declaratory Rulings
1200.150	Conflicts of Interest
1200.160	Variances and Suspensions of Rules

AUTHORITY: Implementing and authorized by the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1601 et seq.).

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17314, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1846, effective January 25, 1985; amended at 11 Ill. Reg. 6428, effective March 27, 1987; amended at 12 Ill. Reg. 20096, effective November 18, 1988; amended at 14 Ill. Reg. 19896, effective Nov. 30, 1990.

NOTE: Capitalization denotes statutory language.

Section 1200.10 Definitions

- a) The term "Act" shall mean the "Illinois Public Labor Relations Act." (Ill. Rev. Stat. 1985 1989, ch. 48, pars. 1601 et seq., as now or hereafter-amended).

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- b) The term "Board" shall refer to the Illinois State Labor Relations Board and the Illinois Local Labor Relations Board or each Board individually as applicable, or an agent designated by the Board.
- c) The term "charging party" shall mean the person who files an unfair labor practice charge.
- d) The term "respondent" shall mean the party named in an unfair labor practice charge or complaint as having allegedly committed the unfair labor practice.
- e) The term "complaint" shall mean a Board document issued to the parties in an unfair labor practice proceeding, notifying them of a hearing and setting forth the issues of fact or law to be resolved at the hearing.
- f) A hearing officer's recommended opinion or decision and order is not a final decision of the Board, but rather a recommended opinion in the name of the hearing officer, setting forth findings of fact and conclusions of law and reasons therefor. Such a recommended opinion or decision and order will be reviewed by the Board upon the filing of exceptions or on the Board's own motion.
- g) The use of the masculine pronoun shall refer to both genders.
- h) An Executive Director's Report is a report concerning challenges and/or objections to an election. Such a report shall be reviewed by the Board upon the filing of an appeal by a party. Such reports are not intended to be final decisions of the Board, but rather contain the results of investigations and a determination regarding the existence of questions of law or fact sufficient to warrant a hearing. An Executive Director's Dismissal is a document which indicates that no questions of law or fact exist sufficient to warrant a hearing.

(Source: Amended at 14 Ill. Reg. 19896, effective Nov. 30, 1990)

Section 1200.20 Filing and Service of Documents

- a) All charges, petitions, mediation requests and other initial documents relating to any proceeding before the Illinois State Labor Relations Board shall be filed in the Board's Springfield office, which office shall be designated as the State Board's principal office. All subsequent documents shall be filed in either the Board's Springfield or Chicago office, as directed by the Board. All

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- b) Whenever these rules require that a document be on a form developed by the Board, the document may be prepared on a form obtained from the Board or on a facsimile thereof. Minor deviations in the form of a document shall not be grounds for objecting to the document. Minor deviations are those concerning form rather than substance which therefore do not prejudice the other parties to a proceeding.
- c) Except as otherwise provided in this Part, all initial pleadings or documents in a matter before the Board shall be served on the appropriate parties by the Board by certified mail.
- d) Except as otherwise provided, all documents, except those listed in subsection (c), above, shall be served by the party filing the document on the appropriate parties. Evidence submitted to the Board in the course of an investigation shall not be subject to this requirement. When a party is represented in a proceeding before the Board, service shall be on the party's representative. When a party is not represented, service shall be on the party. The document shall be accompanied by proof of service. Proof of service shall consist of a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service.
- e) The filing of documents with the Board by electronic transmission, such as telefax machine or computer modem, shall not be accepted.

(Source: Amended at 14 Ill. Reg. 19896, effective Nov. 30, 1990)

Section 1200.30 Computation and Extensions of Time

- a) In computing any period of time prescribed by the Act or these rules this Part, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included. If the last day falls on a Saturday, Sunday, or legal holiday, the time period shall be automatically extended to the next day that is not a Saturday, Sunday or legal holiday.
- b) When a time period prescribed under the Act or these rules is less than seven days, intervening Saturdays, Sundays, or legal holidays

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shall not be included.

- c) Service of a document upon a party by mail shall be presumed complete 90- three days after mailing, if proof of service shows the document was properly addressed. This presumption may be overcome by the addressee, with evidence establishing that the document was not delivered or was delivered at a later date. A party's failure to accept or claim a document served by mail shall not be grounds overcoming the presumption.
- d) Extensions of time will be granted only upon timely application to the Board or the presiding hearing officer, and only upon the showing of a good cause.
- e) In all matters, a document shall be considered filed with the Board on the date that it is received by the Board.

(Source: Amended at Ill. Reg. 19896, effective Nov. 30, 1990)

Section 1200.90 Subpoenas

- a) Following the issuance of a complaint for hearing or a notice of representation hearing, THE BOARD SHALL HAVE THE POWER TO ISSUE SUBPOENAS upon written application of a party. The Board or the hearing officer may require the party requesting issuance of subpoenas to demonstrate, among other factors, that the request is reasonably required to carry out the proceedings before the Board. The application shall contain the name and address of the party and its representative, and the name of the person to be subpoenaed, and a description of any documents to be produced, and the date, time and place of the appearance to be commanded. The date and time may be prior to the hearing when the application seeks to subpoena documents only. Applications seeking to subpoena documents must be filed with the Board at least five days prior to the date on which the documents are to be produced and at least five days prior to the date of the hearing.
- b) A person objecting to the subpoena may file a motion to revoke the subpoena. Grounds for revocation shall include irrelevance, burdensomeness and privilege. The motion must be filed no later than five days after service of the subpoena.
- c) Subpoenas in impasse proceedings shall be handled in accordance with 80 Ill. Adm. Code 1230.90(d). Motions to revoke the subpoena in such proceedings shall be filed with the arbitrator or fact-finder.

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- d) Witnesses appearing at a hearing pursuant to subpoena are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section 47 of "AN ACT concerning fees and salaries, and to classify the several counties of the state with reference thereto." (Ill. Rev. Stat.-1987 1989, ch. 53, par. 65). The party at whose request the subpoena was issued shall be responsible for service of the subpoena and for ensuring that witness fees and mileage are paid.
- e) Board employees shall not be subpoenaed.

(Source: Amended at 14 Ill. Reg. 19896, effective Nov. 30, 1990)

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1) Heading of the Part:

Impasse Resolution

2) Code Citation:

80 Ill. Adm. Code 1230

3) Section Numbers:

1230.10 Amended
1230.20 Amended
1230.30 Amended
1230.40 Amended
1230.50 Amended
1230.60 Amended
1230.70 Amended
1230.80 Amended
1230.90 Amended
1230.100 Amended
1230.110 Amended
1230.140 Amended
1230.150 Amended
1230.160 Amended
1230.180 Amended
1230.190 Amended
1230.200 Amended
1230.220 Amended

Adopted Action:

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4) Statutory Authority:

Implementing Sections 7, 12, 13, 17 and 18 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1607, 1612, 1613, 1617, 1618, 1605(i) and (j)).

5) Effective Date of Amendments: November 30, 1990

6) Does this rulemaking contain an automatic repeal date?

No

7) Do these amendments contain any incorporations by reference?

No

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8) Date filed in Agency's Principal Office?

November 15, 1990

9) Notice of Proposal Published in Illinois Register?

May 25, 1990, 14 Ill. Reg. 7700

10) Has JCAR issued a Statement of Objections to these Amendments?

No

11) Differences between proposal and final version?

- a) Technical corrections were made pursuant to the request of the Secretary of State.
- b) Provides the method the Board will use to select a chairman of an interest arbitration panel when the parties cannot choose.
- c) The words "timely manner" have been removed from Section 1230.80(b)(3) since they were extraneous.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

Yes

13) Will these amendments replace an emergency amendment currently in effect?

No

14) Are there any amendments pending on this part?

No

15) Summary and Purpose of Amendments?

This rulemaking makes changes to comply with the amendments to the Illinois Public Labor Relations Act in Sections 1230.60, 1230.70, 1230.80, 1230.180, 1230.200 and 1230.220; and makes technical changes in Sections 1230.10, 1230.20, 1230.30, 1230.40, 1230.50, 1230.60, 1230.90, 1230.100, 1230.110, 1230.140, 1230.150, 1230.160, 1230.180, 1230.190.

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- (6) Information and questions regarding these adopted amendments shall be directed to:

Brian E. Reynolds
Executive Director
Illinois State Labor Relations Board
320 West Washington Street, Suite 500
Springfield, Illinois 62701

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/
ILLINOIS LOCAL LABOR RELATIONS BOARD

PART 1230

IMPASSE RESOLUTION

SUBPART A: STATEMENT OF PURPOSE AND DEFINITION

Section

1230.10 General Statement of Purpose
1230.20 Definitions

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

Section

1230.30 General Purpose of this Subpart
1230.40 Filing of Contracts
1230.50 Bargaining Notices for Protective Services Units
1230.60 Mediation
1230.70 Demand for Compulsory Interest Arbitration
1230.80 Composition of the Arbitration Panel
1230.90 Conduct of the Interest Arbitration Hearing
1230.100 The Arbitration Award
1230.110 Employer Review of the Award

SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section

1230.120 General Purpose of this Subpart
1230.130 Filing of Contracts
1230.140 Bargaining Notices for General Public Employee Units
1230.150 Mediation
1230.160 Fact-finding
1230.170 Voluntary Interest Arbitration
1230.180 Strikes
1230.190 Petitions for Strike Investigations

SUBPART D: GRIEVANCE ARBITRATION AND MEDIATION

Section

1230.200 Grievance Arbitration
1230.210 Grievance Mediation

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SUBPART E: ILLINOIS PUBLIC EMPLOYEE MEDIATION/ARBITRATION ROSTER

Section

1230.220 Mediation/Arbitration Roster

AUTHORITY: Implementing Sections 7, 12, 13, 17 and 18 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1607, 1612, 1613, 1617, 1618, 1505(i) and (j)).

SOURCE: Emergency rule adopted at 8 Ill. Reg. 17322, effective September 11, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1857, effective January 25, 1985; Part repealed, new Part adopted at 11 Ill. Reg. 6434, effective March 27, 1987; amended at 12 Ill. Reg. 20102, effective November 18, 1988; amended at 14 Ill. Reg. 19903, effective Nov 30, 1990.

NOTE: Capitalization denotes statutory language.

Section 1230.10 General Statement of Purpose

a) In creating this Part, it is the Illinois State and Local Labor Relations Boards' ("Board") intent to be cognizant of the interests of labor organizations, public employers and employees, and the general public in assuring stable labor relations in the public sector. In pursuit of this objective, it is incumbent upon both labor organizations and public employers to adhere to and comply with the rules and regulations set forth herein, particularly those provisions which set forth time periods and those provisions which set forth requirements for filing, with the Board, contracts, bargaining notices and other documents.

b) The regulations contained in this Part detail the procedures for giving required notices during collective bargaining, for resolving impasses in collective bargaining, for making appointments to the Illinois Public Employees Mediation/Arbitration Roster, and for the selection of mediators, fact-finders and arbitrators from the Roster. The regulations in this Part implement the policies of the Illinois Public Labor Relations Act ("Act") (Ill. Rev. Stat. 1989, ch. 48, pars. 1601 et seq.) to provide peaceful and orderly procedures to protect the rights of public employers, public employees, labor organizations and the general public, to prevent labor strife and to protect the public health and safety.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

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Section 1230.20 Definitions

In addition to the following definitions, the definitions in the Board's General Rules (80 Ill. Adm. Code 1200.10) also apply to this Part.

"Fact-finding" shall mean a process whereby an employer and an exclusive representative submit their disputes concerning the terms of a new collective bargaining agreement to a neutral third party for non-binding findings of fact and recommendations.

"General public employee unit" shall mean any bargaining unit of employees who, because they are not subject to Section 14 of the Act, have the right to strike in accordance with Section 17 of the Act.

"Grievance arbitration" shall mean a process whereby an employer and an exclusive representative submit a dispute concerning the interpretation or application of an existing collective bargaining agreement to a neutral third party for resolution.

"Grievance mediation" shall mean a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and endeavor to bring about an amicable, voluntary resolution of a dispute over the interpretation or application of an existing collective bargaining agreement.

"Initial contract" shall refer to negotiations for a collective bargaining agreement covering a bargaining unit that is not currently covered by a collective bargaining agreement between the exclusive representative and the employer.

"Interest arbitration" shall mean a process whereby an employer and an exclusive representative submit their disputes concerning the terms of a new collective bargaining agreement for resolution by a neutral third party. "Compulsory interest arbitration" shall refer to interest arbitration engaged in pursuant to Section 14 of the Act. "Voluntary interest arbitration" shall refer to all other interest arbitration engaged in under the Act.

"Mediation" shall mean a process whereby an employer and an exclusive representative employ a neutral third party to communicate with the parties and endeavor to bring about an amicable, voluntary resolution of negotiations over the terms of a new collective bargaining agreement.

"Protective services unit" shall mean any bargaining unit subject to Section 14 of the Act in which the employees accordingly do not have

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the right to strike. Such units are UNITS OF SECURITY EMPLOYEES OF A PUBLIC EMPLOYER, PEACE OFFICER UNITS, OR UNITS OF FIREFIGHTERS OR PARAMEDICS. (~~Ill. Rev. Stat. 1985, ch. 48, par. 14(a)~~ Section 14(a) of the Act).

"Successor contract" shall refer to negotiations for a collective bargaining agreement covering a bargaining unit that is currently covered by a collective bargaining agreement between the exclusive representative and the employer.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

SUBPART B: IMPASSE PROCEDURES FOR PROTECTIVE SERVICES UNITS

1230.30 General Purpose of this Subpart

SECURITY OFFICERS OF PUBLIC EMPLOYERS, AND PEACE OFFICERS, FIREFIGHTERS AND FIRE DEPARTMENT AND FIRE PROTECTION DISTRICT PARAMEDICS MAY NOT WITHHOLD SERVICES, NOR MAY PUBLIC EMPLOYERS LOCK OUT OR PREVENT SUCH EMPLOYEES FROM PERFORMING SERVICES AT ANY TIME. (~~Ill. Rev. Stat. 1985, ch. 48, par. 16~~ Section 14(m) of the Act). This subpart implements THE PUBLIC POLICY OF THE STATE OF ILLINOIS THAT WHERE THE RIGHT OF EMPLOYEES TO STRIKE IS PROHIBITED BY LAW, IT IS NECESSARY TO AFFORD AN ALTERNATE, EXPEDITIOUS, EQUITABLE AND EFFECTIVE PROCEDURE FOR THE RESOLUTION OF LABOR DISPUTES SUBJECT TO APPROVAL PROCEDURES MANDATED BY THE ACT. (~~Ill. Rev. Stat. 1985, ch. 48, par. 16~~ Section 2 of the Act). To achieve this policy objective, it is incumbent upon the parties to comply with the procedures established and to observe the time periods provided in this Subpart.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.40 Filing of Contracts

- a) To enable the Board to fulfill its responsibilities under the Act and to ensure peaceful and orderly procedures for the resolution of collective bargaining disputes and to provide for expeditious and effective processing of requests for Board impasse resolution services, the following requirements shall apply:

- 1) Within 60 days after a collective bargaining agreement has been reached, each labor organization and each employer shall be responsible for filing with the Board two copies of any collective bargaining agreement that is subject to the Act. The collective bargaining agreements shall be accompanied by Board

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form 035, setting forth the names, addresses and telephone ~~number-numbers~~ of the parties and their representatives, the contract's execution and expiration dates, the composition of the bargaining unit and whether the unit is a general public employee unit or a protective services unit.

- 2) Upon receipt of the contract, the Board shall assign a contract number and shall notify the exclusive representative and the employer in writing of that number. The parties shall refer to the contract number when filing notices pursuant to this Part, or requests for Board impasse resolution services.

- b) The Board's acceptance of the contract for filing and assigning of a contract number is not determinative of the existence of a valid historical unit or of a valid collective bargaining relationship between the parties or that the contract is sufficient to establish a contract bar under 80 Ill. Adm. Code 1210.70.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.50 Bargaining Notices for Protective Services Units

- a) The following notice requirements shall apply where the parties are bargaining for a successor contract:

- 1) Pursuant to Section 7 of the Act, any party wishing to terminate or modify an existing collective bargaining agreement shall serve on the other party a written notice of their intent to terminate or modify. The notice shall be served on the other party 60 days prior to the scheduled termination date of the existing agreement. A copy of the notice shall be filed with the Board by the party wishing to terminate or modify at the same time it is served on the other party. The notice filed with the Board shall reference the existing contract's number as assigned pursuant to Section 1230.40 of this Part.

- 2) If, no later than 30 days after service of the notice of the intent to terminate or modify, the parties have not reached agreement on a new contract, the party who filed the notice shall serve on the other party and the Board a Notice of No Agreement. Such Notice shall be on Board form 036 and shall set forth:

- A) whether the parties are engaged in mediation and, if so, with whom;

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- B) if the parties are not in mediation, ~~a statement as to~~ whether the parties desire the Board's assistance in obtaining mediation;
- C) if the parties are not in mediation and do not require the Board's assistance in obtaining mediation, a statement from the parties that they are fully aware of Section 14's mandate that they engage in mediation 30 days prior to the expiration of a contract.

- b) The following notice requirements shall apply where the parties are bargaining for an initial contract:

- 1) Any time after the Board certifies an exclusive representative or at any time where there exists a valid historical bargaining relationship but no current contract, any party may serve on the other party a written demand for bargaining. A copy of the demand for bargaining shall be filed with the Board by the party making the demand at the same time it is served on the other party. The parties shall begin bargaining at any reasonable time thereafter.

- 2) Thirty days after the initial bargaining session between the parties, the party who filed the demand for bargaining shall file with the Board a Notice of Status of Negotiations. Such Notice shall be on Board form 037 and set forth:

- A) whether the parties are engaged in mediation and, if so, with whom;
- B) if the parties are not in mediation, ~~a statement as to~~ whether the parties desire the Board's assistance in obtaining mediation.
- C) Upon completing negotiations for either a successor or initial contract, the parties shall file with the Board a copy of the contract pursuant to Section 1230.40(a)(1) of this Part.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.60 Mediation

- a) Parties concerned with protective services units shall commence mediation as follows, unless provided for in an alternate Impasse procedure under Section 14(p) of the Act:

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- 1) In bargaining for a successor contract, UNLESS THE PARTIES MUTUALLY AGREE TO SOME OTHER TIME LIMIT, 30 days prior to expiration of the contract (Section 14(a) of the Act).
- 2) In bargaining for an initial contract MEDIATION SHALL COMMENCE UPON 15 DAYS OF NOTICE FROM EITHER PARTY OR AT SUCH LATER TIME AS THE MEDIATION SERVICES CHOSEN PURSUANT TO SUBSECTION (b) OF SECTION 12 CAN BE PROVIDED TO THE PARTIES (111--Rev--Stat--1987; ch--40;--par--1614(e) Section 14(a) of the Act).

- b) If the parties desire Board assistance in engaging a mediator, they shall file a Request for Mediation with the Board on Board form 038. The Board shall provide the parties with a panel of at least three mediators listed on the Public Employees Mediation/Arbitration Roster. The parties shall have seven days from receipt of the list to choose one of the persons on the panel or any other person they choose to serve as mediator. If, at the end of this seven-day period, the parties have not notified the Board of their selection, the Board shall appoint a mediator.

- c) Mediation shall be conducted as follows:

- 1) THE FUNCTION OF THE MEDIATOR SHALL BE TO COMMUNICATE WITH THE EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OR THEIR REPRESENTATIVES AND TO ENDEAVOR TO BRING ABOUT AN AMICABLE AND VOLUNTARY SETTLEMENT. (111--Rev--Stat--1987;--ch--48--par--1612(e) Section 12(a) of the Act).

- 2) The mediator may hold joint and separate conferences with the parties. The conferences shall be private unless the parties otherwise agree.

- 3) Information disclosed by a party to a mediator in the performance of mediation functions shall not be disclosed voluntarily or by compulsion. All files, records, reports, documents, or other papers prepared by a mediator shall be considered confidential. The mediator shall not produce any such confidential records of, or testify in regard to, any mediation conducted by him, on behalf of any party to any cause pending in any type of proceeding.

- 4) The mediator shall keep the Board apprised of the status of the negotiations.

- d) Compensation for the mediator shall be paid equally by the parties, however, IF EITHER PARTY REQUESTS THE USE OF MEDIATION SERVICES FROM

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THE FEDERAL MEDIATION AND CONCILIATION SERVICE, THE OTHER PARTY SHALL EITHER JOIN IN SUCH REQUEST OR BEAR THE ADDITIONAL COST OF MEDIATION SERVICES FROM ANOTHER SOURCE. (Ill. Rev. Stat., 1987, ch. 40, par. 1614.4) Section 14(a) of the Act).

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990.)

Section 1230.70 Demand for Compulsory Interest Arbitration

a) When negotiating for an initial contract or a successor contract, if any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties (Ill. Rev. Stat., 1987, ch. 40, par. 1614.4) Section 14(a) of the Act), either party may file on the other party a Demand for Compulsory Interest Arbitration.

b)

a) When negotiating for an initial contract or a successor contract, if any dispute has not been resolved within 15 days after the first meeting of the parties and the mediator, or within such other time limit as may be mutually agreed upon by the parties (Ill. Rev. Stat., 1987, ch. 40, par. 1614.4) Section 14(a) of the Act), either party may file on the other party a Demand for Compulsory Interest Arbitration.

c)

b) Demands for compulsory interest arbitration shall also be filed with the Board on Board form 117 and shall include the names, addresses and telephone numbers of the parties and their representatives, the contract number and expiration date of the existing contract if there is one, the date mediation began or was waived or refused, the date the Notice of No Agreement was filed or, in initial contract negotiations, the date the Notice of Status of Negotiations was filed.

d)

c) ARBITRATION PROCEDURES SHALL BE DEEMED TO BE INITIATED BY THE FILING OF A Demand for Compulsory Interest Arbitration--a request for mediation (Ill. Rev. Stat., 1987, ch. 40, par. 1614.4) Section 14(j) of the Act).

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990.)

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Section 1230.80 Composition of the Arbitration Panel

a) Unless otherwise agreed to in writing by the parties, the arbitration panel shall consist of three members: the employer's delegate, the exclusive representative's delegate and the neutral chairman.

b) Selection of the neutral chairman shall proceed as follows:

1) Upon Within seven days of receipt of a timely filed Demand for Compulsory Interest Arbitration, the Board shall send the parties a list of seven interest arbitrators selected from the Illinois Public Employees Mediation/Arbitration Roster, unless the parties have notified the Board of an agreement to use an alternate source of interest arbitrators. The parties may agree to use an alternate source of interest arbitrators at any time prior to appointment of an arbitrator by the Board.

2) Within five days following the receipt of the list, the parties shall notify the Board of the person they have selected. The parties may select an individual on the list provided by the Board or any other individual mutually agreed upon by the parties. Unless the parties agree on an alternate selection procedure, they shall alternately strike one name from the list provided by the Board until only one name remains. A coin toss shall determine which party shall strike the first name.

2) THE PARTIES MAY SELECT AN INDIVIDUAL ON THE LIST PROVIDED BY THE BOARD OR ANY OTHER INDIVIDUAL MUTUALLY AGREED UPON BY THE PARTIES. WITHIN seven DAYS FOLLOWING THE RECEIPT OF THE LIST, THE PARTIES SHALL NOTIFY THE BOARD OF THE PERSON THEY HAVE SELECTED. UNLESS THE PARTIES AGREE ON AN ALTERNATE SELECTION PROCEDURE, THEY SHALL ALTERNATIVELY STRIKE ONE NAME FROM THE LIST PROVIDED BY THE BOARD UNTIL ONLY ONE NAME REMAINS. A COIN TOSS SHALL DETERMINE WHICH PARTY SHALL STRIKE THE FIRST NAME. (Section 14(c) of the Act.)

3) If the parties fail to notify the Board in a timely manner of their selection for neutral chairman, the Board shall appoint a neutral chairman from the Illinois Public Employees Mediation/Arbitration Roster.

3) IF THE PARTIES FAIL TO NOTIFY THE BOARD OF THEIR SELECTION FOR NEUTRAL CHAIRMAN, THE BOARD SHALL APPOINT, AT RANDOM, A NEUTRAL CHAIRMAN FROM THE ILLINOIS PUBLIC EMPLOYEES MEDIATION/ARBITRATION ROSTER. (Section 14(c) of the Act.)

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- 4) If the neutral chairman is unable or unwilling to commence the hearing within 15 days following his appointment or within such additional time period to which the parties may agree pursuant to Section 1230.90(a) of this Part, or if the neutral chairman is otherwise unable or unwilling to serve, the parties shall notify the Board within five days. The Board shall provide the parties with a second list of seven interest arbitrators from the Illinois Public Employees Mediation/Arbitration Roster. Within five-seven days after the Board provides the list, the parties shall select an individual from the list or any other individual to serve as neutral chairman. If the parties fail to notify the Board of their selection, the Board shall appoint a neutral chairman. Except in exceptional circumstances, the Board shall not supply the parties with more than two lists of interest arbitrators.

- c) Within ten-10 days following the filing of the demand for compulsory interest arbitration, each party shall notify the Board of the name, address and telephone number of its delegate to the interest arbitration panel. Delegates who are public officers or public employees shall continue on the payroll of the public employer during the arbitration proceeding without loss of pay.

- d) Upon receipt of the names of the delegates and upon selection of a neutral chairman, the Board shall notify the neutral chairman in writing of his appointment. The date of receipt of such notice shall be the date of the neutral chairman's appointment.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.90 Conduct of the Interest Arbitration Hearing

- a) The neutral chairman of the arbitration panel shall provide the parties with reasonable notice of a hearing to commence within 15 days following his appointment. The parties may agree in writing to extend the time for commencement of the hearing for a period of time not to exceed 90 days. The hearing shall conclude within 30 days following its commencement, unless the parties agree to extend this period.
- b) The arbitration panel shall be responsible for choosing the location of the hearing and securing the premises. The Board hereby deems it appropriate for hearings to take place at the location selected by the panel. Requests to use the hearing rooms at the Board's offices must be made to the Board at least ten-10 days in advance, and will

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only be granted if space is available.

- c) The neutral chairman SHALL PRESIDE OVER THE HEARING AND SHALL TAKE TESTIMONY. (Ill-Rev-Stat--1985, ch-48, par--16 Section 14(d) of the Act). The neutral chairman shall control the hearing to ensure that it is concluded expeditiously within 30 days after its commencement or within such longer period to which the parties may agree.
- d) The neutral chairman shall have the authority to issue subpoenas in accordance with 80-III--Adm--Code-1200.90 this Section. Subpoenas shall be secured by the neutral chairman from the Board's office. IF ANY PERSON REFUSES TO OBEY A SUBPOENA, OR REFUSES TO BE SWORN OR TO TESTIFY, OR IF ANY WITNESS, PARTY OR REPRESENTATIVE IS GUILTY OF CONTEMPT WHILE IN ATTENDANCE AT THE HEARING, (Ill-Rev-Stat--1985, ch-48, par--16 Section 14(e) of the Act) the neutral chairman may advise the Board's General Counsel. The General Counsel shall request the assistance of the Attorney General to INVOKE THE AID OF THE CIRCUIT COURT WITHIN THE JURISDICTION IN WHICH THE HEARING IS BEING HELD. (Ill-Rev-Stat--1985, ch-48, par--16 Section 14(e) of the Act).
- e) The arbitration proceeding shall be informal. TECHNICAL RULES OF EVIDENCE SHALL NOT APPLY AND THE COMPETENCE OF EVIDENCE SHALL NOT THEREBY BE DEEMED IMPAIRED. (Ill-Rev-Stat--1985, ch-48, par--16 Section 14(d) of the Act).
- f) THE ARBITRATION PANEL MAY ADMINISTER OATHS, REQUIRE THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, CONTRACTS, AGREEMENTS, AND DOCUMENTS AS MAY BE DEEMED BY IT TO BE MATERIAL TO A JUST DETERMINATION OF THE ISSUES IN DISPUTE. (Ill. Rev. Stat.--1985 1989, ch. 48, par. 1614(e)).
- g) The hearing proceedings shall be transcribed. The arbitration panel shall arrange for the recording and transcription of the proceedings. The costs of recording and transcribing the hearing shall be shared equally by the parties. Any party that desires a copy of the transcript shall be responsible for the cost of its copy.
- h) The neutral chairman, IF HE IS OF THE OPINION THAT IT WOULD BE USEFUL OR BENEFICIAL TO DO SO, MAY REMAND THE DISPUTE TO THE PARTIES FOR FURTHER COLLECTIVE BARGAINING FOR A PERIOD NOT TO EXCEED TWO WEEKS. (Ill-Rev-Stat--1985, ch-48, par--16 Section 14(f) of the Act). The chairman shall notify the Board in writing of any such remand. If the dispute is remanded to the parties, the running of the time period for conclusion of the hearing shall be stayed.

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i) MAJORITY ACTIONS AND RULINGS SHALL CONSTITUTE THE ACTIONS AND RULINGS OF THE ARBITRATION PANEL. (Ill.-Rev.-Stat.-1985, ch.-48, par.-16 Section 14(d) of the Act).

j) ARBITRATION PROCEEDINGS SHALL NOT BE INTERRUPTED OR TERMINATED BY REASON OF ANY UNFAIR LABOR PRACTICE CHARGES INVOLVING EITHER PARTY. (Ill.-Rev.-Stat.-1985, ch.-48, par.-16 Section 14(d) of the Act).

k) Whenever one party has objected in good faith to the presence of an issue before the arbitration panel on the ground that the issue does not involve a subject over which the parties are required to bargain, the arbitration panel's award shall not consider that issue. However, except as provided in Sections-1230-90-subsections (1) and (m) of this Part, the arbitration panel may consider and render an award on any issue that has been declared by the Board, or by the General Counsel pursuant to 80 Ill. Adm. Code 1200.140(b), to be a subject over which the parties are required to bargain.

l) In arbitration proceedings involving peace officers, the arbitration panel shall not consider or render an award on residency requirements, the total number of employees employed by the department, mutual aid and assistance agreements to other units of government, and the criteria by which force, including deadly force, can be used. The panel shall consider the type of equipment, other than uniforms, issued or used, or manning levels only if it finds that the issue involves A SERIOUS RISK TO THE SAFETY OF A PEACE OFFICER BEYOND THAT WHICH IS INHERENT IN THE NORMAL PERFORMANCE OF POLICE DUTIES. (Ill.-Rev.-Stat.-1985, ch.-48, par.-16 Section 14(i) of the Act).

m) In arbitration proceedings involving firefighters or paramedics employed by fire departments or fire protection districts, the arbitration panel shall not consider or render an award on residency requirements, the total number of employees employed by the department, mutual aid and assistance agreements to other units of government, and the criteria by which force, including deadly force, can be used. The panel shall consider the type of equipment, other than uniforms, issued or used, only if it finds that the issue involves A SERIOUS RISK TO THE SAFETY OF A FIRE FIGHTER BEYOND THAT WHICH IS INHERENT IN THE NORMAL PERFORMANCE OF FIRE FIGHTER DUTIES. (Ill.-Rev.-Stat.-1985, ch.-48, par.-16 Section 14(i) of the Act). These limitations shall not apply to any provision of a firefighter collective bargaining agreement in effect and applicable as of January 1, 1986.

n) If issues of peace officer manning, or peace officer, firefighter or

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paramedic equipment are raised, unless otherwise agreed to by the parties, the panel shall receive evidence concerning the existence of a serious safety risk beyond that which is inherent in the normal performance of the employee's duties and evidence concerning the merits of the issue in the same proceeding.

o) The arbitration panel shall:

1) determine which issues are in dispute and which of those issues are economic issues and serve a copy of that determination on the parties; and

2) require the parties to submit their final offers of settlement on each economic issue in dispute;

3) The panel need not determine whether, with regard to protective service employees, equipment or manning issues involve serious safety risks beyond that which is inherent in the normal performance of the employees' duties at this stage of the proceeding.

4) The panel may allow the parties reasonable additional time, as determined by the number and the complexity of the issues, for presenting written or oral arguments in support of their positions. The hearing shall be considered concluded when final offers are submitted or when written or oral arguments are presented, whichever is later.

p) The neutral chairman's fee, the costs of recording and transcribing the hearing, the rent, if any for the hearing room, and all other costs of the proceeding, except for supplemental proceedings necessitated by an employer's rejection of an arbitration award, shall be shared equally by the parties.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.100 The Arbitration Award

a) WITHIN 30 DAYS AFTER THE CONCLUSION OF THE HEARING OR SUCH FURTHER ADDITIONAL PERIODS TO WHICH THE PARTIES MAY AGREE (Ill.-Rev.-Stat.-1985, ch.-48, par.-16 Section 14(g) of the Act), the panel shall issue, serve on the parties, and file with the Board its award and findings of fact. The award shall be considered issued on the date it is served on the parties. The panel shall file a certificate of service with the Board.

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- b) The award shall contain findings of fact and a written opinion concerning each issue in dispute. THE DETERMINATION OF THE ARBITRATION PANEL AS TO THE ISSUES IN DISPUTE AND AS TO WHICH OF THESE ISSUES ARE ECONOMIC SHALL BE CONCLUSIVE. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(g) of the Act). With respect to each economic issue in dispute, the panel shall adopt the final offer of one of the parties, based on the following factors:

- 1) THE LAWFUL AUTHORITY OF THE EMPLOYER (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(1) of the Act);
- 2) STIPULATIONS OF THE PARTIES (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(2) of the Act);
- 3) THE INTERESTS AND WELFARE OF THE PUBLIC AND THE FINANCIAL ABILITY OF THE UNIT OF GOVERNMENT TO MEET THESE COSTS. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(3) of the Act).
- 4) COMPARISON OF THE WAGES AND CONDITIONS OF EMPLOYMENT OF THE EMPLOYEES INVOLVED IN THE ARBITRATION PROCEEDING WITH THE WAGES, HOURS AND CONDITIONS OF EMPLOYMENT OF OTHER EMPLOYEES PERFORMING SIMILAR SERVICES AND WITH OTHER EMPLOYEES GENERALLY:
 - A) IN PUBLIC EMPLOYMENT IN COMPARABLE COMMUNITIES.
 - B) IN PRIVATE EMPLOYMENT IN COMPARABLE COMMUNITIES. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(4) of the Act).
- 5) THE AVERAGE CONSUMER PRICES FOR GOODS AND SERVICES, COMMONLY KNOWN AS THE COST OF LIVING. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(5) of the Act).
- 6) THE OVERALL COMPENSATION PRESENTLY RECEIVED BY THE EMPLOYEES, INCLUDING DIRECT WAGE COMPENSATION, VACATIONS, HOLIDAYS AND OTHER EXCUSED TIME, INSURANCE AND PENSIONS, MEDICAL AND HOSPITALIZATION BENEFITS, THE CONTINUITY AND STABILITY OF EMPLOYMENT AND ALL OTHER BENEFITS RECEIVED. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(6) of the Act).
- 7) CHANGES IN ANY OF THE FOREGOING CIRCUMSTANCES DURING THE PENDENCY OF THE ARBITRATION PROCEEDINGS. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(7) of the Act).
- 8) SUCH OTHER FACTORS, NOT CONFINED TO THE FOREGOING, WHICH ARE NORMALLY OR TRADITIONALLY TAKEN INTO CONSIDERATION IN THE

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DETERMINATION OF WAGES, HOURS AND CONDITIONS OF EMPLOYMENT THROUGH VOLUNTARY COLLECTIVE BARGAINING, MEDIATION, FACT-FINDING, ARBITRATION OR OTHERWISE BETWEEN THE PARTIES, IN THE PUBLIC SERVICE OR IN PRIVATE EMPLOYMENT. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(h)(8) of the Act).

- c) With respect to each noneconomic issue in dispute, the panel shall base its award on the applicable factors set forth in Section 14(h)(8) subsection (b).
- d) If peace officer manning issues, or peace officer, fire fighter or paramedic equipment issues are in dispute, the panel shall first make its findings and conclusions concerning the presence of a serious risk to employee safety beyond that which is inherent in the normal performance of the employee's duties. If the panel finds that such a serious risk exists, the panel shall render an award in accordance with this Part.
- e) THE COMMENCEMENT OF A NEW MUNICIPAL FISCAL YEAR AFTER THE INITIATION OF ARBITRATION PROCEDURES (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(j) of the Act) shall not render the proceeding moot. Awards of wage increases may be effective only at the start of the fiscal year beginning after the date of the award; however, if a new fiscal year began after the initiation of arbitration proceedings, an award of wage increases may be retroactive to the beginning of that fiscal year.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.110 Employer Review of the Award

- a) ALL OF THE TERMS DECIDED UPON BY THE ARBITRATION PANEL SHALL BE INCLUDED IN AN AGREEMENT TO BE SUBMITTED TO THE PUBLIC EMPLOYER'S GOVERNING BODY FOR RATIFICATION AND ADOPTION BY LAW, ORDINANCE OR EQUIVALENT APPROPRIATE MEANS. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(n) of the Act).
- b) THE GOVERNING BODY SHALL REVIEW EACH TERM DECIDED BY THE ARBITRATION PANEL. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(n) of the Act).
- c) The governing body may reject any terms of the award BY A THREE-FIFTHS VOTE OF THOSE DULY ELECTED AND QUALIFIED MEMBERS OF THE GOVERNING BODY. (Ill.-Rev.-Stat.-1985,--ch--48,--par--16 Section 14(n) of the Act). Such rejection vote must occur within 20 days after

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service of the award. The governing body shall provide written reasons for its rejection and shall serve those reasons on the parties and the neutral chairman no later than 20 days after the rejection vote. The governing body shall file a copy of its reasons for rejection and a certificate of service with the Board. The reasons for rejection shall be considered issued on the date that they are served on the neutral chairman.

- d) Any terms not rejected in accordance with this Section shall become a part of the parties' collective bargaining agreement.
- e) The neutral chairman shall call together the panel and convene a supplemental interest arbitration hearing within 30 days after issuance of the reasons for rejection. The supplemental hearing shall be conducted in accordance with Section 1230.90 of this Part.
- f) The parties may mutually agree to select a different neutral chairman for the supplemental hearing, provided they notify the Board and the original neutral chairman within seven days after service of the reasons for rejection of the award.
- g) ALL REASONABLE COSTS OF SUCH SUPPLEMENTAL PROCEEDINGS, INCLUDING THE EXCLUSIVE REPRESENTATIVE'S REASONABLE ATTORNEY'S FEES, SHALL BE PAID BY THE EMPLOYER. (~~Ill. Rev. Stat. 1985, ch. 48, par. 16~~ Section 14(o) of the Act). If the employer refuses to pay any costs or attorney's fees, the exclusive representative may submit the costs and/or fees to the Board's General Counsel for a determination of reasonableness. The General Counsel shall certify the amount determined to be reasonable and the employer shall promptly pay such amount to the exclusive representative.
- h) Any supplemental award rendered by the arbitration panel shall be subject to governing body review in accordance with this Section.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

SUBPART C: IMPASSE PROCEDURES FOR GENERAL PUBLIC EMPLOYEE UNITS

Section 1230.140 Bargaining Notices for General Public Employee Units

The following notice requirements shall apply when the parties are bargaining for a successor contract for a general public employee unit:

- a) Pursuant to Section 7 of the Act, any party wishing to terminate or modify an existing collective bargaining agreement shall serve on the

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other party a written demand for bargaining. The demand for bargaining shall be served on the other party 60 days prior to the scheduled termination date of the existing agreement. Service of the demand for bargaining CONTINUES IN FULL FORCE AND EFFECT, WITHOUT RESORT TO STRIKE OR LOCKOUT, ALL THE TERMS AND CONDITIONS OF THE EXISTING CONTRACT FOR A PERIOD OF 60 DAYS AFTER SUCH DEMAND NOTICE IS GIVEN TO THE OTHER PARTY OR UNTIL THE EXPIRATION DATE OF SUCH CONTRACT, WHICHEVER OCCURS LATER. (~~Ill. Rev. Stat. 1985, ch. 48, par. 16~~ Section 07(4) of the Act). A copy of the demand for bargaining shall be filed with the Board by the party making the demand at the same time it is served on the other party. The demand for bargaining shall reference the existing contract's number as assigned pursuant to Section 1230.130 of this Part.

- b) Upon completing negotiations for either a successor or initial contract, the parties shall file with the Board a copy of the contract pursuant to Section 1230.130(a)(1) of this Part.
- c) Any time after the parties have commenced negotiations, either party may request fact finding or mediation/arbitration services. Such requests shall be filed in accordance with this Subpart.

(Source: Amended at 14 Ill. Reg. 19903 effective Nov 30, 1990)

Section 1230.150 Mediation

- a) Requests for mediation shall be on Board form 038. Joint requests for mediation may be made by telephone, provided that a written request follows immediately.
- b) Requests for mediation in negotiations for either successor or initial contracts may be made at any time after the parties have commenced negotiations.
- c) Requests for mediation shall generally be made jointly. Unilateral requests for mediation may be made only after the party requesting mediation has asked the other party to join in the request and the other party has refused. Unilateral requests for mediation shall be accompanied by a written statement setting forth the circumstances of the other party's refusal to join in the request. Upon receipt of a unilateral request for mediation, the Board shall investigate the request. If the Board's investigation discloses that the request was properly filed under this Part, that bargaining has not resulted in an agreement, and that mediation would assist the parties, the Board shall grant the request. Unilateral requests filed by the exclusive

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representative in conformance with this Section shall satisfy the precondition for a lawful strike set forth in Section 17(a)(4) of the Act.

- d) Whenever the Board grants a request for mediation it shall provide the parties with a panel of at least three mediators listed on the Public Employees Mediation/Arbitration Roster. The parties shall have seven days from receipt of the list to choose one of the persons on the panel or any other person they choose to serve as mediator. If at the end of this seven-day period the parties have not notified the Board of their selection, the Board shall appoint a mediator.

- e) Mediation shall be conducted as follows:

- 1) THE FUNCTION OF THE MEDIATOR SHALL BE TO COMMUNICATE WITH THE EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OR THEIR REPRESENTATIVES AND TO ENDEAVOR TO BRING ABOUT AN AMICABLE AND VOLUNTARY SETTLEMENT. (~~11-Rev--Stat--1987--ch--48--par--16~~ Section 12(a) of the Act).

- 2) The mediator may hold joint and separate conferences with the parties. The conferences shall be private unless the parties otherwise agree.

- 3) Information disclosed by a party to a mediator in the performance of mediation functions shall not be disclosed voluntarily or by compulsion. All files, records, reports, documents, or other papers prepared by a mediator shall be considered confidential. The mediator shall not produce any confidential records of, or testify in regard to, any mediation conducted by him, on behalf of any party to any case pending in any type of proceeding.

- 4) The mediator shall keep the Board apprised of the status of the negotiations.

- f) Compensation of the mediator shall be paid equally by the parties, however, IF EITHER PARTY REQUESTS THE USE OF MEDIATION SERVICES FROM THE FEDERAL MEDIATION AND CONCILIATION SERVICE, THE OTHER PARTY SHALL EITHER JOIN IN SUCH REQUEST OR BEAR THE ADDITIONAL COST OF MEDIATION SERVICES FROM ANOTHER SOURCE. (Ill. Rev. Stat.--~~1987~~ 1989, ch. 48, par. 1617(a)(5)).

(Source: Amended at 14 Ill. Reg. 19903 effective Nov 30, 1990)

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Section 1230.160 Fact-finding

- a) The parties may agree in writing to the use of fact-finding in resolving their disputes.

- b) Requests for fact-finding shall be filed on Board form 038 and shall be accompanied by a copy of the parties' agreement to use fact-finding.

- c) Upon receipt of the request for fact-finding, the Board shall supply the parties with a list of seven fact-finders listed on the Public Employees Mediation/~~Arbitration~~-Arbitration Roster. The parties shall select one individual from the list to serve as fact-finder within ~~ten~~ 10 days of service of the list. If the parties advise the Board that they are unable to select one of the seven individuals on the list, the Board shall provide a second list. Except in extraordinary circumstances, the Board shall not provide more than two lists. The parties shall notify the Board of the name of the individual they select to serve as fact-finder. Upon being so notified, the Board shall appoint the fact-finder.

- d) If fact-finding follows mediation, the parties may agree to use the mediator as fact-finder, provided that the mediator is not a Board employee.

- e) The fact-finding hearing shall be conducted as follows:

- 1) THE PERSON APPOINTED AS FACT-FINDER SHALL IMMEDIATELY ESTABLISH THE DATES AND PLACE OF HEARING.

- 2) UPON REQUEST, THE BOARD SHALL ISSUE SUBPOENAS FOR HEARINGS CONDUCTED BY THE FACT-FINDER.

- 3) THE FACT-FINDER MAY ADMINISTER OATHS. (Ill. Rev. Stat.--~~1985~~ 1989, ch. 48, par. 1613(b)).

- f) The fact-finder shall issue his report and findings as follows:

- 1) The fact-finder shall serve his findings and report on the parties and the Board within 45 days after his appointment, unless the parties mutually agree to extend the time period.

- 2) Within five days after service of the findings and report, the fact-finder shall mail his findings and report to all newspapers of general circulation in the community as mutually designated by the parties, unless the parties mutually request otherwise.

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- g) The costs of the fact-finding proceeding shall be shared equally by the parties.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

Section 1230.180 Strikes

Employees in general public employee units have the right to strike, provided that the following conditions have been met:

- a) THE EMPLOYEES ARE REPRESENTED BY AN EXCLUSIVE BARGAINING REPRESENTATIVE (Ill. Rev. Stat.--~~1985~~ 1989, ch. 48, par. 1617(a)(1)) that has been certified by the Board or that has a valid claim to status as an historical bargaining representative pursuant to Section 3(f) of the Act;
- b) THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PUBLIC EMPLOYER AND THE PUBLIC EMPLOYEES, IF ANY, HAS EXPIRED, OR SUCH AGREEMENT DOES NOT PROHIBIT THE STRIKE. (Ill. Rev. Stat.--~~1985~~ 1989, ch. 48, par. 1617(a)(2)). Pursuant to Section 8 of the Act, a collective bargaining agreement must contain provisions prohibiting strikes for the agreement's duration and providing for a grievance procedure culminating in final and binding arbitration of disputes over the interpretation of the agreement unless the parties agree to forgo these provisions.
- c) THE PUBLIC EMPLOYER AND THE LABOR ORGANIZATION HAVE NOT MUTUALLY AGREED TO SUBMIT THE DISPUTED ISSUES TO FINAL AND BINDING ARBITRATION. (Ill. Rev. Stat.--~~1985~~ 1989, ch. 48, par. 1617(a)(3)).
- d) THE EXCLUSIVE REPRESENTATIVE HAS REQUESTED A MEDIATOR PURSUANT TO SECTION 12 (~~Ill. Rev. Stat.--1985, ch. 48, par. 1617(a)(4)~~) of the Act and Section 1230.150 of this Part AND MEDIATION HAS BEEN USED (Ill. Rev. Stat. 1989, ch. 48, par. 1617(a)(4)).
- e) AT LEAST FIVE DAYS HAVE ELAPSED AFTER A NOTICE OF INTENT TO STRIKE HAS BEEN GIVEN BY THE EXCLUSIVE REPRESENTATIVE TO THE PUBLIC EMPLOYER. (Ill. Rev. Stat.--~~1985~~ 1989, ch. 48, par. 1617(a)(5)). A copy of the notice shall be filed with the Board and shall reference the contract number in cases of negotiations for successor contracts or the certification case number in cases of negotiations for initial contracts. The five day time period shall be calculated in accordance with 80 Ill. Adm. Code 1200.30(a) and (b).

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

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Section 1230.190 Petitions for Strike Investigations

- a) IF A STRIKE, WHICH MAY CONSTITUTE A CLEAR AND PRESENT DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC IS ABOUT TO OCCUR OR IS IN PROGRESS, THE PUBLIC EMPLOYER CONCERNED MAY (Ill. Rev. Stat.--~~1985~~ 1989, ch. 48, par. 1618(a)) file with the Board a petition for a strike investigation.
- b) A petition for a strike investigation shall be on form 039 by the Board and shall contain:
 - 1) the name, address and telephone number of the petitioner;
 - 2) the name, address, telephone number and affiliation, if any, of the labor organization that is threatening or conducting the strike;
 - 3) the name, address and telephone number of the parties' representatives;
 - 4) the date that the strike began or is threatened to begin;
 - 5) a detailed description of the danger posed by the strike to the public health and safety.
- c) Petitioner shall attach to its petition copies of all relevant evidence, including affidavits, of the existence of a strike or the threat of a strike, and of the existence of a CLEAR AND PRESENT DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC. (~~Ill. Rev. Stat.--1985, ch. 48, par. 16~~ Section 18 of the Act).
- d) The employer shall serve a copy of the petition on the labor organization prior to or simultaneously with its filing with the Board. Service shall be in person or by overnight delivery.
- e) The Board shall investigate the petition. If there are disputed issues of material fact, the Board shall hold an expedited hearing. The Board shall issue its findings within 72 hours following the filing of the petition.
- f) If the Board finds that there is no strike or threat of a strike, or that there is no CLEAR AND PRESENT DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC, (~~Ill. Rev. Stat.--1985, ch. 48, par. 16~~ Section 18 of the Act) or that the employer is otherwise not entitled to relief pursuant to Section 18 of the Act, the Board shall serve its findings on the parties. The employer may refile its petition for a strike

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investigation only if it alleges that circumstances have changed since the filing of the Board's findings.

- g) If the Board finds that there is a strike or a threat of a strike that poses a CLEAR AND PRESENT DANGER TO THE HEALTH AND SAFETY OF THE PUBLIC, (~~Ill. Rev. Stat.~~ 1985, ch. 40, par. 16 Section 18 of the Act) and the Board finds that the employer is otherwise entitled to relief pursuant to Section 18 of the Act, the Board shall serve its findings on the parties.

- h) Whenever a court enjoins a strike and orders interest arbitration in accordance with Section 14 of the Act, Section 1230.80 through 1230.110 of this Part shall govern the arbitration.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990.)

SUBPART D: GRIEVANCE ARBITRATION AND MEDIATION

Section 1230.200 Grievance Arbitration

- a) Unless mutually agreed otherwise, every collective bargaining agreement between an employer and a labor organization which covers employment subject to the Act shall contain a grievance procedure which has as its last step final and binding grievance arbitration. The parties may use the Illinois Public Employees Mediation/Arbitration Roster or any other source for selection of grievance arbitrators.

- b) ~~Whenever the parties request~~ either party requests, unless the collective bargaining agreement provides for an alternative source, the Board shall provide a panel of up to seven grievance arbitrators selected from the Illinois Public Employees Mediation/Arbitration Roster. Requests shall be submitted on Board form 132. If the parties are unable to select an arbitrator from the first panel, the Board shall provide a second panel. The Board shall not provide more than two panels.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990.)

SUBPART E: ILLINOIS PUBLIC EMPLOYEES MEDIATION/ARBITRATION ROSTER

Section 1230.220 Mediation/Arbitration Roster

- a) The Boards shall establish an Illinois Public Employees

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Mediation/Arbitration Roster and shall make its services available for mediation, fact-finding, interest arbitration, grievance arbitration, and grievance mediation. The Roster shall list qualified mediators, fact-finders, interest arbitrators, and grievance arbitrators. A person may be qualified in more than one category.

- b) Appointment to the Roster shall be based upon a majority vote of the members of both Boards, after application by the individual. The application shall be on a form developed by the Boards.

- c) In making appointments to the Roster, the Boards shall consider such factors as experience and training, membership on other recognized mediation or arbitration panels, education, prior published awards, current advocacy in employment relations matters, letters of recommendation supporting the application, and any other relevant material supplied by the applicant or requested by the Boards. Individuals appointed to the Roster shall be residents of the State of Illinois. The members of the Public Employees Mediation/Arbitration Roster are persons who are on the labor arbitration panels of either the American Arbitration Association or the Federal Mediation and Conciliation Service or who are members of the National Academy of Arbitrators.

- d) Individuals appointed to the Roster shall file with the Boards a brief biographical sketch, a concise resume of their experience relevant to the position for which they are listed and a fee schedule. Whenever an individual is selected to serve in a case, that individual shall not charge a fee greater than that listed in the fee schedule he has filed with the Boards. A minimum of 30 days notice shall be given to the Board for changes in fee schedules.

- e) Requests for panels from the Roster shall be submitted on a form developed by the Boards and shall include:

- 1) The name, address, telephone number and affiliation, if any, of the parties submitting the request;
- 2) The name, address and telephone number of the parties' representatives;
- 3) The type of service requested; and
- 4) A brief description of the nature of the dispute, including unresolved issues, to the extent known.

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- f) Whenever the Board provides the parties with a panel selected from the Roster, the Board shall provide copies of the biographical sketches and fee schedules of the panelists.
- g) The parties may jointly request that panels submitted to them contain or omit specific individuals. No party may unilaterally make such a request.
- h) Individuals listed on the Roster shall abide by the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, as amended, effective May 29, 1985, and adopted by the National Academy of Arbitrators and the American Arbitration Association, and shall take the constitutional affirmation of office. This incorporation by reference does not contain any further amendments.

(Source: Amended at 14 Ill. Reg. 19903, effective Nov 30, 1990)

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- 1) Heading of the Part:
Representation Proceedings
- 2) Code Citation:
80 Ill. Adm. Code 1210
- 3) Section Numbers:
- | | |
|----------|---------|
| 1210.10 | Amended |
| 1210.30 | Amended |
| 1210.40 | Amended |
| 1210.50 | Amended |
| 1210.60 | Amended |
| 1210.70 | Amended |
| 1210.100 | Amended |
| 1210.110 | Amended |
| 1210.120 | Amended |
| 1210.140 | Amended |
| 1210.150 | Amended |
| 1210.160 | Amended |
| 1210.170 | Amended |
| 1210.180 | Amended |
| 1210.190 | Amended |
- Adopted Action:

+ Statutory Authority:

Implementing Section 9 and authorized by Sections 5(i) and (j) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1609, 1605(i) and (j)).

- 5) Effective Date of Amendments November 30, 1990

- 6) Does this rulemaking contain an automatic repeal date?

No

- 7) Do these amendments contain any incorporations by reference?

No

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8) Date filed in Agency's Principal Office?

November 15, 1990

9) Notice of Proposal Published in Illinois Register?

May 25, 1990, 14 Ill. Reg. 7726

10) Has JCAR issued a Statement of Objections to these Amendments?

No

11) Differences between proposal and final version?

- a) Final version puts back into the Rules the required contents of voluntary recognition notices.
- b) Technical corrections were made pursuant to the Secretary of State's request.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

Yes

13) Will these amendments replace an emergency amendment currently in effect?

No

14) Are there any amendments pending on this part?

No

15) Summary and Purpose of Amendments?

This rulemaking changes the time period of 14 days to 10 days for filing an appeal from a dismissal of a representation petition in Section 1210.100; changes the time period of 5 days to 10 days for filing an appeal from an Executive Director's Report on challenges and/or objections to an election in Section 1210.150; changes the notice procedures for voluntary recognition requests in Section 1210.160; changes the notice procedures, answer requirement and objections procedures for petitions to amend or clarify an existing bargaining unit in Section 1210.170; and makes technical changes in Sections 1210.10, 1210.30, 1210.40, 1210.50, 1210.60, 1210.70, 1210.110, 1210.120, 1210.140, 1210.160, 1210.180 and 1210.190.

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16) Information and questions regarding these adopted amendments shall be directed to:

Brian E. Reynolds
Executive Director
Illinois State Labor Relations Board
320 West Washington Street, Suite 500
Springfield, Illinois 62701

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE C: LABOR RELATIONS
CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/
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PART 1210

REPRESENTATION PROCEEDINGS

Section

- 1210.10 General Statement of Purpose
- 1210.20 Labor Organization Options in Seeking Recognition
- 1210.30 Employer Options in Responding to Recognition Requests
- 1210.40 Representation Petitions
- 1210.50 Intervention Petitions
- 1210.60 Decertification Petitions
- 1210.70 Timeliness of Petitions
- 1210.80 Showing of Interest
- 1210.90 Posting of Notice
- 1210.100 Processing of Petitions
- 1210.110 Consent Elections
- 1210.120 Bargaining Unit Determinations
- 1210.130 Eligibility of Voters
- 1210.140 Conduct of the Election
- 1210.150 Objections to the Election
- 1210.160 Voluntary Recognition Procedures
- 1210.170 Petitions for Amendment or Clarification of the Bargaining Unit
- 1210.180 Petitions to Amend Certification
- 1210.190 Expedited Elections Pursuant to Section 10(b)(7)(C) of the Act

AUTHORITY: Implementing Section 9 and authorized by Section 5(i) and (j) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1609, 1605(i) and (j)).

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16014, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1870, effective January 25, 1985; amended at 11 Ill. Reg. 6461, effective March 27, 1987; amended at 12 Ill. Reg. 20110, effective November 18, 1988; amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990

NOTE: Capitalization denotes statutory language.

Section 1210.10 General Statement of Purpose

The regulations contained in this Part detail the procedures that employers,

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employees and labor organizations should use for employer voluntary recognition of a labor organization and for instituting representation and related proceedings. These procedures are the exclusive means by which a public employer may recognize a labor organization after the effective date of these rules. Any other purported recognition effected after the effective date of these rules shall not bar representation petitions, nor shall any collective bargaining agreement negotiated by the parties pursuant to the purported recognition bar representation petitions pursuant to the Illinois Public Labor Relations Act ("Act") (Supp.-to-Ill. Rev. Stat.-1983 1989, ch. 48, pars. 1601 et seq.).

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.30 Employer Options in Responding to Recognition Requests

- a) An employer faced with a request for recognition in a bargaining unit that is not currently represented by a labor organization may agree to resort to the voluntary recognition procedures set forth in Section 1210.160 of this Part; may consent to a representation election; may file a representation petition with the Board; or may decline to respond to the request.
- b) An employer faced with a request for recognition in a bargaining unit in which another labor organization is recognized in accordance with the Act may file a representation petition with the Board or may decline to respond to the request. The employer may not voluntarily recognize the labor organization.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.40 Representation Petitions

- a) A representation petition may be filed by:

- 1) an employee, a group of employees, or a labor organization; or
- 2) an employer, ALLEGING THAT ONE OR MORE LABOR ORGANIZATIONS HAVE PRESENTED A CLAIM TO BE RECOGNIZED AS AN EXCLUSIVE BARGAINING REPRESENTATIVE OF A MAJORITY OF THE EMPLOYEES IN AN APPROPRIATE UNIT. (Supp.-to-Ill.-Rev.-Stat.-1983; ch.-48, par.-t669-Section 9(a)(2) of the Act).

- b) Representation petitions shall be signed by a representative of the petitioning party and shall contain:

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- 1) the name, address and telephone number of the employer;
 - 2) the name, address, telephone number and affiliation, if any, of the labor organization;
 - 3) the name, address and telephone number of petitioner's representative;
 - 4) a specific and detailed description of the proposed bargaining unit which petitioner claims to be appropriate, including employee classifications or job titles to the extent known;
 - 5) a statement of whether the proposed unit combines professional and non-professional employees;
 - 6) a statement of whether the proposed unit combines craft and noncraft employees;
 - 7) the approximate number of employees in the proposed bargaining unit;
 - 8) the name of any existing exclusive representative of any employees in the proposed bargaining unit;
 - 9) a brief description of any collective bargaining agreements covering any employees in the proposed bargaining unit, and the expiration dates of the agreements;
 - 10) the date that the employer recognized any existing exclusive representative of any employees in the proposed bargaining unit, and the method of recognition;
 - 11) election and/or recognition history prior to July 1, 1984, to the extent known; and
 - 12) in the case of a petition filed by an employer, a statement that one or more labor organizations has demanded recognition.
- c) The Board shall serve the representation petition on the appropriate parties as follows:
- 1) Employer petitions shall be served on the labor organizations that have demanded recognition, and on the existing exclusive representative, if any.
 - 2) Employee and labor organization petitions shall be served on the

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- employer and on the existing exclusive representative, if any.
- d) Employee and labor organization petitions shall be accompanied by a showing of interest that at least 30 percent of the employees in the petitioned for bargaining unit wish to be represented by the labor organization.
 - e) A petition may seek joint representation by two or more labor organizations if an instrument, such as a joint council, has been established to effectuate the joint representation. In such instances, the petition shall describe the instrument, and the showing of interest shall expressly designate joint representation.
 - f) A labor organization may withdraw its representation petition as follows:
 - 1) If there are no intervenors, at any time. However, any such withdrawal which occurs after the direction of an election or the approval of a consent election agreement shall bar the labor organization from petitioning for an election in a bargaining unit covering all or part of the petitioned for unit for six months following the withdrawal.
 - 2) If there are intervenors, the labor organization may not withdraw its petition without the consent of all parties. However, the labor organization may file a statement signed by its authorized representative that it no longer wishes to appear on the ballot. The statement shall be filed no later than ten 10 days prior to the election. Upon receipt of such a statement, the Board shall strike the labor organization's name from the ballot.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.50 Intervention Petitions

- a) An intervention petition may be filed by an employee, a group of employees, or a labor organization.
- b) Intervention petitions shall be signed by a representative of the petitioning party and shall contain the same information as is required for representation petitions.
- c) Intervention petitions may be filed with the Board no later than 15 days prior to the date of the election. However, any intervenor who

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files after the commencement of the hearing or, if no hearing is held, after the approval of a consent election agreement or the direction of an election, shall have waived objections to the bargaining unit.

- d) Intervention petitions shall be accompanied by a showing of interest that at least ~~ten~~-10 percent of the employees in a bargaining unit substantially similar to the petitioned for unit or at least 30 percent of the employees in a bargaining unit that is not substantially similar to the petitioned for unit wish to be represented by the labor organization. In determining whether the proposed bargaining units are substantially similar, the Board will consider the number and type of employees included in each of the proposed units. The proposed units will not be considered substantially similar whenever less than 50 percent of the employees in the originally proposed unit are included in the unit proposed by the intervenor.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.60 Decertification Petitions

- a) The purpose of a decertification proceeding is to determine whether a majority of the employees in an appropriate bargaining unit maintain their desire to be represented by the existing exclusive bargaining representative.
- b) A petition to decertify an existing exclusive representative may be filed with the Board. The petition shall be served by the Board on the exclusive representative and on the employer. The petition shall be on a form developed by the Board. It shall be signed and shall contain the following:
- 1) the name, address and telephone number of the petitioner and of the petitioner's representative;
 - 2) the name, address, telephone number and affiliation, if any, of the exclusive representative;
 - 3) the name, address and telephone number of the employer;
 - 4) a specific and detailed description of the bargaining unit including employee classifications or job titles;
 - 5) the approximate number of employees in the bargaining unit;

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- 6) the date that the exclusive representative was recognized and the method of recognition, if known; and
 - 7) a brief description of any collective bargaining agreements covering any employees in the bargaining unit, and the expiration dates of the agreements.
- c) A petition to decertify an existing exclusive representative must be supported by a 30 percent showing of interest.
- d) An employer may not instigate a decertification petition filed by an employee or group of employees.
- e) The Executive Director, when convinced that the petition is filed in accordance with Section-1210-60-subsection (c) and Section 1210.70 of this Part, and contains no issues of law or fact sufficient to warrant a hearing, shall direct an election as expeditiously as possible. The parties shall be given 10 days after service of the Executive Director's Order Directing Election to appeal the Order to the Board.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov 30, 1990)

Section 1210.70 Timeliness of Petitions

- a) Representation and decertification petitions may not be filed:

- 1) within 12 months following a valid Board-conducted election among all or some of the employees in the bargaining unit. The 12-month period shall run from the date on which the Board certifies the results of the election;
- 2) within 12 months following voluntary recognition and Board certification of an exclusive representative of all or some of the employees in the bargaining unit. The 12-month period shall run from the date of certification; or
- 3) whenever there is in effect a collective bargaining agreement of three years or shorter duration covering all or some of the employees in the bargaining unit. Collective bargaining agreements of longer than three years duration shall serve as a bar for the first three years of their existence. In all cases, representation and decertification petitions may be filed between 90 days and 60 days prior to the scheduled expiration date of a collective bargaining agreement of three years or less

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duration, or between 90 and 60 days prior to the end of the third year of an agreement of more than three years duration or anytime after the end of the third year of an agreement of more than three years duration.

- b) A collective bargaining agreement shall not bar the filing of a representation or decertification petition if the agreement is between an employer and an employee organization recognized by the employer after the effective date of ~~these rules~~-this Part without having used the voluntary recognition or representation election procedures specified in the Act and these regulations.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov 30, 1990)

Section 1210.100 Processing of Petitions

- a) Within seven days after service of a petition, an employer shall file a list containing the full names of the employees in the proposed bargaining unit. In the event the employer does not supply the list within seven days, the Board shall administratively determine the adequacy of the showing of interest, based on the information provided by the union.

- b) All parties served with a representation or decertification petition may file a response to the petition. Any response filed shall set forth the positions of the parties with respect to the matters asserted in the petition, including, but not limited to, the appropriateness of the bargaining unit and, to the extent known, whether any employees sought by petitioner to be included in the unit are supervisory, managerial or confidential. If a party agrees to the appropriateness of the unit proposed in the petition, it shall so indicate. If a party disagrees with the unit proposed in the petition, it shall describe with particularity what it considers to be an appropriate unit, and shall include a description of the job titles and classifications of the employees to be included and of those to be excluded.

- c) The setting forth of a party's position with respect to the appropriate unit shall not be deemed to waive or otherwise preclude the right of that party to subsequently assert a different position with respect to what unit it considers to be appropriate.

- d) Petitions to intervene in the election may be filed with the Board no later than 15 days prior to the date of the election. However, any intervenor who files after the date set for hearing or, if no hearing

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is held, after the approval of a consent election agreement or the direction of an election, shall have waived objections to the bargaining unit.

- e) Upon receipt of the petition, the Board or its agent shall investigate the petition. The Executive Director shall dismiss a petition when a petition has been filed untimely; when the bargaining unit is clearly inappropriate; when the showing of interest is not adequate; when the employer is not covered by the Act; when the employees are not covered by the Act; and when for any other reason there is no reasonable cause to believe that a question of representation exists. The parties shall be given 14-10 days after service of the Dismissal to appeal the Dismissal to the Board. If the investigation discloses that there is reasonable cause to believe that a question concerning representation exists the Board shall set the matter for hearing before a hearing officer. All parties shall be given a minimum of 14 days notice of the hearing. If the only issues remaining between the parties after the investigation are logistical, e.g. the date of the election, the Executive Director may issue an Order Directing Election. The parties shall be given 10 days after service of the Executive Director's Order Directing Election to appeal the Order to the Board.

- f) Interested persons, other than labor organizations, who may be necessary to the proceedings, who wish to intervene in the hearing shall direct such requests to the hearing officer. The request shall be in writing and shall state the grounds for intervention. The hearing officer shall have discretion to grant or deny the request for intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.

- g) The hearing officer may schedule a prehearing conference or request statements of position when it appears to the hearing officer that such would expedite the procedure.

- h) The hearing shall be non-adversarial in nature. All parties may present evidence and make arguments, subject to the control of the hearing officer.

- i) The hearing officer shall inquire fully into all matters in dispute, and shall obtain a full and complete record. The hearing officer shall file and serve on the parties a recommended disposition of the case as expeditiously as possible.

- j) Exceptions

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- 4) Briefs in support of responses to exceptions shall be limited to the questions raised in the exceptions and in the brief in support thereof. It shall present clearly the points of fact and law relied upon in support of the positions taken on each question.
- k) The Board will review the hearing officer's recommendation upon request by a party or on its own motion. The Board may adopt all, part, or none of the recommendation depending on the extent to which it is consistent with the record and the applicable law. If the Board determines that a question concerning representation exists, the Board shall direct the holding of an election on a date and at a time and place set by the Board. The Board shall direct the posting of a notice of election.
- l) Within seven days following the Board's direction of an election, the employer shall furnish the Board and the labor organizations with a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.
- m) Where the Board orders an election in a unit different from the one petitioned for, the petitioner and intervenors, if any, shall have five days to submit a showing of interest in the new unit.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov 30, 1990)

Section 1210.110 Consent Elections

- a) Following the filing of a petition, a stipulation for a consent election may be filed as follows:
 - 1) The stipulation must be signed by the petitioner, the employer, the labor organization seeking to represent the employees, and any intervenor that has filed a timely petition.
 - 2) The stipulation must specify the bargaining unit; the eligibility date for participation in the election; the date, place and hours of the election; and a reasonable number of observers allowed to each party.
- b) A notice of the stipulated election shall be posted in accordance with Section 1210.90 of these rules this Part.

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- 1) Parties may file exceptions to the hearing officer's recommendation and briefs in support of those exceptions no later than 14 days after service of the recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. Each party shall serve its exceptions, responses, and briefs on the other parties. Parties desiring oral argument before the Board shall request oral argument and provide the reasons for the requests in their exceptions or responses. The Board will grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.
- 2) Requirements
 - A) Each exception
 - i) shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;
 - ii) shall identify that part of the hearing officer's opinion or decision to which objection is made; and
 - iii) shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief.
 - B) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.
- 3) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain, in the order indicated, the following:
 - A) A clear and concise statement of the case containing all that is material to the consideration of the questions presented.
 - B) A specification of the questions involved and to be argued.
 - C) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.

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- c) All consent elections shall be conducted under the direction and supervision of the Board. Upon receipt of a stipulation for a consent election the Executive Director shall review the stipulation. If the Executive Director determines that the stipulation is consistent with the Act and this Part, the Executive Director shall direct the holding of the consent election.
- d) Within seven days following the Executive Director's approval of the consent election agreement, the employer shall furnish the Board and the labor organizations with a list of the full names, alphabetized by last name, and addresses of the employees eligible to vote in the election. The lists shall be provided by personal delivery or certified mail. The employer shall obtain receipts verifying delivery.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.120 Bargaining Unit Determinations

- a) In determining the appropriateness of a unit for purposes of collective bargaining, the Board shall consider all relevant factors, including, BUT NOT LIMITED TO, SUCH FACTORS AS HISTORICAL PATTERN OF RECOGNITION; COMMUNITY OF INTEREST INCLUDING EMPLOYEE SKILLS AND FUNCTIONS; DEGREE OF FUNCTIONAL INTEGRATION; INTERCHANGEABILITY AND CONTACT AMONG EMPLOYEES; FRAGMENTATION OF EMPLOYEE GROUPS; COMMON SUPERVISION, WAGES, HOURS AND OTHER WORKING CONDITIONS OF THE EMPLOYEES INVOLVED; AND THE DESIRES OF THE EMPLOYEES. (~~Supp--to-iii-Rev--Stat--ch--48--par--i609(b))~~)

- b) Whenever a representation petition proposes a bargaining unit which includes craft and noncraft employees, the petition shall so state. Pursuant to Section 1210.50 of this Part, a labor organization may file a petition to intervene in a unit limited to a craft. Whenever a party has so intervened, the election shall proceed in accordance with Section 1210.140(c) of this Part.

- c) Whenever a petition is filed alleging a bargaining unit that includes or that may include professional and nonprofessional employees, the petition shall so state. Pursuant to Section 1210.50 of this Part, a labor organization may file a petition to intervene in a unit limited to professional employees or limited to nonprofessional employees. The election shall be conducted in accordance with Section 1210.140(d) of this Part.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov 30, 1990)

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Section 1210.140 Conduct of the Election

- a) The election shall be conducted under the supervision of the Board. Voting shall be by secret ballot. Whenever the Board determines that a mail ballot will better effectuate the purposes of the Act, it shall conduct the election by mail ballot. In all other cases, it shall conduct the election on site.
- b) Ballots shall list all labor organizations that properly petitioned or intervened in the election, the incumbent exclusive representative, and the choice of "No Representation".
- c) Where an election involves a bargaining unit that includes craft employees, and there has been a proper petition for a separate craft unit, craft employees shall be given two ballots: one to vote for or against craft severance and a second to vote on choice of representative, if any. Noncraft employees shall only be given ballots for voting on choice of representative.
- d) Where an election involves a bargaining unit containing professional and nonprofessional employees, all employees shall be given two ballots: one for indicating whether they desire a combined professional/nonprofessional unit and a second for indicating choice of representative, if any.
- e) When the election is conducted on site, the following procedures shall apply:
- 1) Each party shall be entitled to an equal number of observers as determined by the Board or its agent or as provided for in a Board-approved stipulation. Observers for the employer may not be individuals who supervise any of the employees in the bargaining unit. The conduct of observers is subject to such reasonable limitations as the Board or its agent may prescribe.
 - 2) The Board's agent shall prescribe the area in proximity to the polling place in which electioneering shall be prohibited. Cameras, video equipment, and similar equipment shall be prohibited within the actual polling area while employees are voting.
 - 3) Ballot boxes shall be examined in the presence of the observers immediately prior to the opening of the polls and shall be sealed at the opening of the polls. The seal shall allow for one opening on the top of the ballot box for voters to insert their ballots.

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- 4) The Board's agent or any authorized observer may challenge the eligibility of any voter. The observer must state the reason for the challenge. A voter whose identity has been challenged may establish his identity by showing a driver's license or any other piece of identification acceptable to the Board's agent. A challenged voter shall be permitted to vote in secret. His ballot shall be placed in a "challenged ballot" envelope. The envelope shall be sealed by the Board's agent and initialed by the observers. The reason for the challenge and the voter's name shall be marked on the envelope and the envelope shall be placed in the ballot box.
- 5) A voter shall mark a cross (X) or check () in the circle or block designating his choice in the election. The intent of the voter shall be followed in the marking of the ballot. If the ballot is defaced, torn, marked in such a manner that it is not understandable, or identifies the voter, the ballot shall be declared void. If the voter inadvertently spoils a ballot, he may return it to the Board's agent who shall give the voter another ballot. The spoiled ballot shall be placed in a "spoiled ballot" envelope. The envelope shall be sealed by the Board's agent and initialed by the observers, and the Board's agent shall place the envelope in the ballot box.
- 6) A voter shall fold his ballot so that no part of its face is exposed and, on leaving the voting booth, shall deposit the ballot in the ballot box. If the election is continued for more than one period, the ballot box shall be sealed by the Board's agent and initialed by the observers until the subsequent opening of the polls and shall remain in the custody of the Board's agent until the counting of the ballots.
- 7) The Board's agent may privately assist any voter who, due to physical or other disability, is unable to mark his ballot.
- 8) Each party shall designate a representative to observe the tallying of the ballots.
- 9) Upon conclusion of the polling, ballots shall be tallied in accordance with Section--1210-140-subsection (h)-of--this-part. If there was only one polling location, ballots shall be tallied at the polling site. If there was more than one polling location, the Board's agent shall seal the ballot boxes, which shall be initialed by the observers, and bring them to a predetermined central location. When all of the ballot boxes have arrived, they shall be opened by the Board's agent and the

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- f) When the election is to be conducted by mail ballot, the following procedures shall apply:
 - 1) Each eligible voter shall be mailed a packet containing a ballot, ballot envelope, a pre-addressed stamped return envelope, and instructions.
 - 2) The instructions shall advise the voter to mark his ballot without identifying himself, place the ballot in the ballot envelope, seal the ballot envelope and place it in the return envelope, seal the return envelope, both print and sign the return envelope across the seal, and mail it to the Board. The instructions will also advise the voter of the date, set by the Board, by which return envelopes must be postmarked.
 - 3) When the election includes a vote on a combined professional/nonprofessional unit, or a vote on craft severance, the appropriate voters shall be mailed separate ballots and ballot envelopes for unit preference or craft severance, and for choice of representative. These voters shall be instructed to mark the ballots separately, place them in their respective ballot envelopes, and return both ballot envelopes in the return envelope.
 - 4) The parties may designate an equal number of representatives, as set by the Board, to observe the tallying of the ballots. Ballots shall be tallied on a date set by the Board.
 - 5) Ballots shall remain unopened in their return envelopes until the date set for tallying. On the date set for tallying, the representatives and the Board's agent shall have an opportunity to challenge any ballots prior to the opening of the return envelopes. Challenged ballots shall be handled in accordance with Section--1210-140-subsection (e)(4)-of--this-part. All ballots that have not been challenged shall be separated from their return envelopes and commingled prior to tallying.
 - 6) The ballots shall be tallied in accordance with Section 1210.140(h) of this Part.
 - g) The Board's agent shall attempt to resolve ballot challenges before the ballots are counted.
 - h) In mail and on site elections, ballots will be tallied in the

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presence of the parties' representatives attending the count as follows:

- 1) The Board's agent shall segregate the challenged ballots. The challenged ballots shall only be opened and counted if they could be determinative of the outcome of the election.
- 2) If challenges to ballots have not been resolved, and if the challenges could affect the outcome of the election, the Board will treat the challenges in the same manner as objections to the election.
- 3) When the election includes a vote on craft severance, the craft employee ballots on craft severance shall be tallied first. If a majority of the craft employees casting valid craft severance ballots choose craft severance, the craft and noncraft ballots on choice of representative, if any, shall be tallied separately. If a majority of the craft employees casting valid ballots do not choose craft severance, the ballots on choice of representative, if any, shall be tallied together.
- 4) When the election includes a vote on a combined professional/nonprofessional unit, the ballots on unit preference shall be tallied first. Separate tallies shall be made for professional and nonprofessional employees. If a majority of the employees casting valid ballots in each group vote for a combined unit, the ballots on choice of representative, if any, shall be tallied together. If a combined unit fails to receive a majority vote in either or both groups, the ballots on choice of representative, if any, shall be tallied separately.
- i) When there are only two choices on the ballot and each receives 50 percent of the vote, the following shall apply:
 - 1) In representation elections, absent valid objections or challenges, the Board shall certify that a majority of the employees have not voted to select the labor organization as their exclusive representative.
 - 2) In decertification elections, absent valid objections or challenges, the Board shall certify that a majority of the employees have not maintained their desire to be represented by the labor organization.
- j) Where there are three or more choices on the ballot (two or more

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labor organizations and "No Representation") and no choice receives a majority of the valid ballots cast, the Board shall conduct a runoff election between the two choices that received the most votes. When there is a tie for first place among more than two choices, the runoff shall be among those choices involved in the tie. When there is a tie for second place, the runoff shall be among the first place choice and those ~~tieing~~ tying for second place. The results of votes taken during the first election on craft severance and/or combined professional/nonprofessional units, if applicable, shall be binding on the runoff election.

- k) The Board shall preserve all ballots until such time as any objections to the election have been resolved and the results have been certified.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov 30, 1990)

Section 1210.150 Objections to the Election

- a) Any party to the election may file objections with the Board alleging that the result was not fairly and freely chosen by a majority of the employees. The party must serve its objections on the other parties to the election prior to or simultaneously with their filing with the Board.
- b) Objections must be received by the Board no later than five days after the final tally was served on the representatives. Pending challenges to ballots shall not stay the time for filing objections.
- c) The objecting party shall, within five days after filing objections, submit to the Board a statement of material facts and issues and a summary of material evidence.
- d) The Executive Director shall promptly investigate the allegations, and at the conclusion of the investigation, issue a Report on the Challenges and/or Objections. The parties shall be given 5 10 days after service of the Report to appeal it to the Board. If the Executive Director finds reasonable cause to believe that the result of the election was not fairly and freely chosen by a majority of the employees, he shall set the matter for hearing regarding the objections. If the Board determines, after hearing, that the result was not fairly and freely chosen by a majority of the employees, it shall order a new election and shall order corrective action which it finds necessary to insure the fairness of the new election. If the Board determines, upon investigation or after hearing, that the

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result was fairly and freely chosen by a majority of the employees, it shall promptly certify the election results.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1999)

Section 1210.160 Voluntary Recognition Procedures

a) These voluntary recognition procedures may not be used under the following circumstances:

- 1) whenever a labor organization is recognized in accordance with the Act as the exclusive representative of all or some of the employees in the bargaining unit;
- 2) whenever there has been a valid representation or decertification election in a bargaining unit containing all or some of the employees within the preceding twelve-12 months;
- 3) whenever the proposed bargaining unit would include both professional and nonprofessional employees;
- 4) whenever the employer does not believe that the proposed bargaining unit is appropriate; and
- 5) whenever the employer does not believe that the labor organization requesting voluntary recognition represents a majority of the employees in the proposed bargaining unit.

b) When an employer and a labor organization agree to use the voluntary recognition procedures, the employer and labor organization must file a request for voluntary recognition with the Board. The request shall be on a form developed by the Board. The request shall be signed by both parties and shall contain the following:

- 1) the name, address and telephone number of the employer;
- 2) the name, address, telephone number and affiliation, if any, of the labor organization;
- 3) the name, addresses and telephone numbers of the parties' representatives;
- 4) a specific and detailed description of the proposed bargaining unit, including job titles and classifications;

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5) the number of employees in the proposed bargaining unit and whether the proposed bargaining unit includes professional employees; and

6) a statement describing why the employer and the labor organization are satisfied that the labor organization represents the majority of the employees in an appropriate bargaining unit.

c) The request must be supported by objective evidence of the majority status of the labor organization. (See Section 1210.80 of this Part.)

1) If authorization cards are offered as evidence, they may be jointly submitted to the Board or may be submitted by the labor organization confidentially to the Board.

2) If authorization cards are offered as evidence, those cards that would not qualify as evidence in support of a representation petition will not be considered sufficient evidence of majority status.

3) If employees signing such authorization cards have also signed cards authorizing other labor organizations to represent them, those cards will not be considered sufficient evidence of majority status.

d) Upon following the filing the of a request for voluntary recognition, the Board shall provide the employer with a Notice of Voluntary Recognition which shall ~~the employer and the labor organization must simultaneously file a copy of a voluntary recognition notice with the Board. After a copy of the notice is filed with the Board, the original notice must be posted on bulletin boards and other places where notices for employees in the bargaining unit are customarily posted placed. The notice must be on a form developed by the Board, and must contain the following:~~ The Board's Notice shall have the following information:

- 1) statement that, subject to Board certification, the employer intends to recognize the employee organization if no competing claims of representation are filed with the Board;
- 2) the name and address of the employer;
- 3) the name and address and affiliation, if any, of the labor organization;

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- 4) a specific and detailed description of the proposed bargaining unit, including job titles and classifications;
- 5) the number of employees in the proposed bargaining unit;
- 6) the date of posting; and
- 7) the signature of the employer's representative.

e) The notice shall remain posted for a period of 20 days. The employer shall take steps reasonably necessary to insure that the notice is not removed or defaced.

f) During the 20-day posting period, any competing labor organization may file a petition with the Board seeking to represent all or some of the employees in the unit. Prior to, or simultaneously with its filing with the Board, the competing organization shall serve the petition on the employer and the labor organization that was to have been voluntarily recognized. The petition shall be on a form developed by the Board and shall contain:

- 1) the name, address, telephone number and affiliation, if any, of the labor organization;
- 2) the name, address, telephone number and signature of petitioner's representative;
- 3) the names of the employer and labor organization that the employer intended to voluntarily recognize, and the names and addresses of the employer and labor organization representatives;
- 4) a specific and detailed description of the proposed bargaining units, including job titles and classifications to the extent known, proposed by the petitioner and on the voluntary recognition notice and designate any positions included in both units;
- 5) the date the voluntary recognition notice was posted; and
- 6) the date the posting period is scheduled to terminate.

g) A competing labor organization's petition must be supported by a showing of interest of AT LEAST 10 PERCENT OF THE EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT WHICH INCLUDES ALL OR SOME OF THE EMPLOYEES IN THE UNIT that was to have been voluntarily recognized. (Ill.-Rev.-Stat.-1987, ch.-40, par.-16 Section 9(g) of the Act.)

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h) Upon the filing of a competing labor organization's petition and proper showing of interest, the Board shall treat the voluntary recognition proceeding as a representation proceeding. The Board shall proceed in accordance with Section 9(a) of the Act and Sections 1210.80 through 1210.150 of this Part.

i) If no competing labor organization petitions have been filed with the Board by the termination of the posting period, the employer and the labor organization shall file with the Board a certification of posting. This certification of posting shall be on a form developed by the Board. The certification of posting shall contain the following:

- 1) the Board case number assigned to the request for voluntary recognition and date filed;
- 2) the name, address and telephone number of the employer;
- 3) the name, address, telephone number and affiliation, if any, of the labor organization;
- 4) the names, addresses and telephone numbers of the parties' representatives;
- 5) a specific and detailed description of the proposed bargaining unit, including job titles and classifications;
- 6) the number of employees in the proposed bargaining unit;
- 7) the dates, locations and termination date of the posting of the voluntary recognition notice;
- 8) a statement that the notice was not removed or defaced during the posting period;
- 9) a statement that the parties desire certification of the voluntary recognition issue; and
- 10) a statement that no intervening petition was filed.

j) The Board will investigate the employer-labor organization voluntary recognition certification request.

1) If the Board concludes that the labor organization represents a majority of the employees in an appropriate bargaining unit, and that the petition is otherwise consistent with the Act and this

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Part, the Board shall certify the employee organization as the exclusive representative of the employees.

- 2) If the Board determines that there is insufficient evidence to support the claim of majority status, that the proposed bargaining unit is not appropriate, or that the petition otherwise contravenes the Act or this Part, the Board shall dismiss the petition without prejudice to the filing of a representation petition by either the employer or the labor organization or the commencement of voluntary recognition proceedings in an appropriate unit in which the labor organization has majority status.

- k) If, after the Board directs an election in a representation proceeding, the employer decides to voluntarily recognize the labor organization, the Request for Voluntary Recognition must be filed within 14 days after service of the Board's Direction of Election. Within seven days after receipt of the Request, if the Board determines that there is insufficient evidence to support the claim of majority status, an election shall be scheduled as expeditiously as possible.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.170 Petitions for Amendment or Clarification of the Bargaining Unit

- a) An exclusive representative or an employer may file a petition to clarify or amend an existing bargaining unit. The petition shall be served on the other party by the Board. The petition shall be signed and shall contain the following:
 - 1) the name, address and telephone number of the employer;
 - 2) the name, address and telephone number of petitioner's representative;
 - 3) the name, address, telephone number and affiliation, if any, of the exclusive representative;
 - 4) a specific and detailed description of the existing bargaining unit including job titles and classifications; and
 - 5) the nature of the proposed amendment or clarification and the reasons therefor.

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- b) Following the filing of a petition to amend or clarify an existing unit, the Board shall provide the employer with a notice which shall be posted on bulletin boards and other places where notices for employees in the bargaining unit are customarily posted. Notice shall remain posted ~~until the petition is resolved or withdrawn~~ for at least 20 days.
- c) The respondent may file an answer to the petition within 20 days following service of the petition. ~~Failure to answer shall be deemed a waiver of objections to the petition and a waiver of a hearing.~~
- d) The Board or its agent shall investigate the petition and, if necessary, set it for hearing.

- 1) Interested persons desiring to intervene in the hearing shall submit a written request to the hearing officer. The hearing officer shall have discretion to grant or deny intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.

- 2) The hearing officer may schedule a prehearing conference or request prehearing briefs when it appears to the hearing officer that such would expedite the procedure.

- 3) The hearing officer shall inquire into all matters in dispute and shall obtain a full and complete record. Following the close of the hearing, the hearing officer shall file and serve upon the parties a recommended disposition of the matter.

- 4) Exemptions

A) Parties may file exceptions to the hearing officer's recommendation and briefs in support of their exceptions no later than 14 days after service of the recommendation. Parties may file responses to exceptions and briefs in support of the responses, no later than 10 days after service of the exceptions. Each party shall serve its exceptions, responses and briefs on the other parties. Parties desiring oral argument before the Board shall request oral argument and provide the reasons for the requests in their exceptions or responses. The Board will grant or deny requests for oral argument depending upon the significance, complexity and novelty of the issues. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions.

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B) Each exception

- i) shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;
- ii) shall identify that part of the hearing officer's opinion or decision to which objection is made; and
- iii) shall state the grounds for the exceptions and shall include the citation of authorities unless set forth in a supporting brief.

C) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

D) Any brief in support of exceptions shall be confined to the subjects raised in the exceptions and shall contain, in the order indicated, the following:

i) A clear and concise statement of the case containing all that is material to the consideration of the questions presented.

ii) A specification of the questions involved and to be argued.

iii) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question.

E) Briefs in support of responses to exceptions shall be limited to the questions raised in the exceptions and in the brief in support thereof. It shall present clearly the points of fact and law relied upon in support of the position taken on each question.

5) The Board will review the hearing officer's recommendation upon request of a party or on its own motion. The Board may adopt all, part, or none of the recommendation.

e) The parties may stipulate to an amendment or clarification of the bargaining unit. The stipulation shall be filed with the Board. A notice of the stipulation shall be posted on bulletin boards and at

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other places where notices for employees in the bargaining unit are customarily posted. The notice shall advise employees of the terms of the stipulation and direct persons objecting to the stipulation to file objections with the Board. The notice shall remain posted for at least 20 days. The employer shall take reasonable steps to insure that the notice is not removed or defaced during the posting period.

f) During the any posting period under this Section, interested parties may file objections with the Board. Objections shall be served on the employer and the exclusive representative prior to, or simultaneously with, their filing with the Board. If objections are not timely filed and/or properly served, the objections shall be deemed waived.

g) Following the posting period, if no objections have been filed, the Board shall approve or disapprove the amendment or clarification depending upon whether the amendment or clarification is consistent with the Act. If objections have been filed, the Board shall proceed in accordance with Section 1210.170(c)-(d) of this Part.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.180 Petitions to Amend Certification

a) An exclusive representative shall file a petition with the Board to amend its certification whenever there is a change in its name or structure. The petition shall be served by the Board on the employer. The petition shall be signed, under penalty of perjury, and shall contain:

- 1) the name, address and telephone number of the employer;
- 2) the name, address, telephone number and affiliation, if any, of the exclusive representative, as certified by the Board;
- 3) the name, address and telephone number of petitioner's representative;
- 4) a description of the proposed amendment; and
- 5) the reasons for the proposed amendment.

b) The employer shall post a notice of the proposed amendment in accordance with Section 1210.170(b) of this Part.

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- c) Interested persons, including the employer, may file objections to the proposed amendment with the Board during the posting period. Objections shall be served on the exclusive representative prior to, or simultaneously with, filing with the Board.
- d) If, at the conclusion of the posting period, no objections have been filed, the Board may approve or disapprove the amendment or take any other action on it necessary to effectuate the purposes and policies of the Act.
- e) If objections have been filed during the posting period, the Board shall proceed in accordance with Section 1210.170(c)-(d) of this Part.
- f) The expedited election shall be conducted on site, in accordance with Section 1210.140 of ~~these rules~~ this Part. Objections to the election may be filed in accordance with Section 1210.150 of ~~these rules~~ this Part.
- g) After completion of the election, any continuation of the activities as set forth in Section 10(b)(7)(C) of the Act or any threat to continue such activities shall constitute a violation of Section 10(b)(7)(B) of the Act.

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

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- a) Whenever a labor organization is engaged in activities as set forth in Section 10(b)(7)(C) of the Act ~~(Ill. Reg. 1985, ch. 48, par. 1610(b)(7)(6))~~, the employer may file a petition for an expedited election.
- b) Labor organizations and employees may not file petitions for expedited elections.
- c) A petition for an expedited election shall contain the same information as set forth in Section 1210.40 of this Part for representation petitions. A petition for an expedited election shall also contain a detailed statement describing the picketing, including the date the picketing began. The petition shall be accompanied by evidence, including relevant documents and affidavits, supporting the employer's allegation of activities as set forth in Section 10(b)(7)(C) of the Act. The petition shall be served by the Board on the labor organization.
- d) The Board shall investigate the petition. The investigation shall include an expedited hearing where one is necessary to resolve disputed issues of fact concerning the appropriateness of the bargaining unit or the appropriateness of an expedited election. The parties shall be given at least 24 hours notice of the hearing.
- e) If, after investigation, the Board determines that recognitional or organizational picketing within the meaning of Section 10(b)(7)(C) of the Act is continuing, it shall direct an expedited election. The order directing an expedited election shall establish the bargaining

(Source: Amended at 14 Ill. Reg. 19930, effective Nov. 30, 1990)

Section 1210.190 Expedited Elections Pursuant to Section 10(b)(7)(C) of the Act

- a) Whenever a labor organization is engaged in activities as set forth in Section 10(b)(7)(C) of the Act ~~(Ill. Reg. 1985, ch. 48, par. 1610(b)(7)(6))~~, the employer may file a petition for an expedited election.
- b) Labor organizations and employees may not file petitions for expedited elections.
- c) A petition for an expedited election shall contain the same information as set forth in Section 1210.40 of this Part for representation petitions. A petition for an expedited election shall also contain a detailed statement describing the picketing, including the date the picketing began. The petition shall be accompanied by evidence, including relevant documents and affidavits, supporting the employer's allegation of activities as set forth in Section 10(b)(7)(C) of the Act. The petition shall be served by the Board on the labor organization.
- d) The Board shall investigate the petition. The investigation shall include an expedited hearing where one is necessary to resolve disputed issues of fact concerning the appropriateness of the bargaining unit or the appropriateness of an expedited election. The parties shall be given at least 24 hours notice of the hearing.
- e) If, after investigation, the Board determines that recognitional or organizational picketing within the meaning of Section 10(b)(7)(C) of the Act is continuing, it shall direct an expedited election. The order directing an expedited election shall establish the bargaining

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1) Heading of the Part:

Unfair Labor Practice Proceedings

2) Code Citation:

80 Ill. Adm. Code 1220

3) Section Numbers:Adopted Action:

1220.10

Amended

1220.30

Amended

1220.50

Amended

1220.80

4) Statutory Authority:

Implementing Sections 10 and 11 and authorized by Section 5(i) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1610, 1611, and 1605(i)).

5) Effective Date of Amendments November 30, 19906) Does this rulemaking contain an automatic repeal date?

No

7) Do these amendments contain any incorporations by reference?

No

8) Date filed in Agency's Principal Office?

November 15, 1990

9) Notice of Proposal Published in Illinois Register?

May 25, 1990, 14 Ill. Reg. 7756

10) Has JCAR issued a Statement of Objections to these Amendments?

No

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11) Differences between proposal and final version?

- a) Technical corrections were made pursuant to the request of the Secretary of State.
- b) Examples of the types of costs payable to appointed counsel are now provided.
- c) Standards are now given for when the Board will approve costs in excess of \$500 for appointed counsel.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?

Yes

13) Will these amendments replace an emergency amendment currently in effect?

No

14) Are there any amendments pending on this part?

No

15) Summary and Purpose of Amendments?

This rulemaking clarifies the provisions relating to appointment of counsel and increases the compensation for appointed counsel in Section 1220.30; and makes technical changes in Sections 1220.10, 1220.30, 1220.50, and 1220.80.

16) Information and questions regarding these adopted amendments shall be directed to:

Brian E. Reynolds
Executive Director
Illinois State Labor Relations Board
320 West Washington Street, Suite 500
Springfield, Illinois 62701

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Section 1220.30 Appointment of Counsel

- a) A charging party may file a request for appointment of counsel simultaneously with or after filing a charge. The request shall be on a form developed by the Board. It shall be accompanied by an affidavit attesting to the charging party's INABILITY TO PAY OR INABILITY TO OTHERWISE PROVIDE FOR ADEQUATE REPRESENTATION. (~~Supp-~~ ~~to-111--Rev--Stat--1983--ch--48--par--1605(k)~~-Section 5(k) of the Act). It shall also be accompanied by affidavits, documents or other evidence supporting the charge.
- b) A charging party shall be deemed unable to pay or provide for adequate representation if his/her "Adjusted Income" is less than the amount set forth in Table A to this Part for a "Family Unit" of the applicable size, and if he/she is not entitled to representation from a labor organization (or such representation would be inappropriate) or under the provisions of a prepaid legal services plan or similar arrangement. As an example, instances when representation by a labor organization would be inappropriate include when an individual files charges against a labor organization.
- c) For purposes of this Section, "Adjusted Income" refers to all gross income available to the charging party for the prior year from wages, pensions, annuities, insurance or public assistance benefits, interest and dividends, and other such sources, including liquid assets such as savings and checking accounts, stocks, bonds and similar investments, less the following deductions for the prior year:
- 1) Child care and court-ordered child support payments;
 - 2) That portion of educational and medical expenses which exceeds 5 percent of total gross income;
 - 3) Unreimbursed expenses of obtaining and maintaining employment; and
 - 4) An amount equivalent to 20 percent of wages earned, to approximate withholding for taxes and social security and the like.
- d) For purposes of this Section, "Family Unit" means the charging party and all other persons related to the charging party by blood, marriage or adoption who reside in the charging party's household and are dependent upon the charging party for at least one half of their support.

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE C: LABOR RELATIONS

CHAPTER IV: ILLINOIS STATE LABOR RELATIONS BOARD/
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PART 1220

UNFAIR LABOR PRACTICE PROCEEDINGS

- Section
1220.10 General Statement of Purpose
1220.20 Filing of a Charge
1220.30 Appointment of Counsel
1220.40 Charge Processing and Investigation, Complaints and Responses
1220.50 Hearings
1220.60 Consideration by the Board
1220.70 Requests for Preliminary Relief
1220.80 Unfair Labor Practice Charges Involving Fair Share Fees

TABLE A "Adjusted Income" Standards for Appointment of Counsel in Unfair Labor Practice Cases

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 5(1) of the Illinois Public Labor Relations Act (Ill. Rev. Stat. 1989, ch. 48, pars. 1610, 1611, and 1605(1)).

SOURCE: Emergency rule adopted at 8 Ill. Reg. 16043, effective August 22, 1984, for a maximum of 150 days; adopted at 9 Ill. Reg. 1898, effective January 25, 1985; amended at 11 Ill. Reg. 6481, effective March 27, 1987; amended at 12 Ill. Reg. 20122, effective November 18, 1988; amended at 14 Ill. Reg. 19959, effective Nov 30, 1990.

NOTE: Capitalization denotes statutory language.

Section 1220.10 General Statement of Purpose

The regulations contained in this Part detail the procedures for initiating, processing and resolving charges that an employer or a labor organization has committed, or is committing, an unfair labor practice in violation of Sections 10(a) and 10(b) of the "Illinois Public Labor Relations Act" ("Act") (~~Supp-~~ ~~to-111. Rev. Stat.--1983 1989, ch. 48, pars. 1601 et seq.~~)-(the-Act).

(Source: Amended at 14 Ill. Reg. 19959, effective Nov 30, 1990.)

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e) If the Board or its designated representative determines that the charging party is unable to pay or is otherwise unable to provide for adequate representation, and that the charge is not CLEARLY WITHOUT MERIT, the Board shall appoint counsel to represent the charging party in the proceedings.

f) Counsel appointed by the Board to represent the charging party in such a case shall certify to the Board:

1) That he or she is licensed to practice law in Illinois under the rules of the Illinois Supreme Court (Ill. Rev. Stat. ~~1984~~ 1989, ch. 110A, pars. 701 et seq.).

2) That he or she has previous experience as the representative of parties in the trial or hearing of contested cases. An attorney without trial experience, including a law student certified to practice under Rule 711 of the Illinois Supreme Court, (~~Ill. Rev. Stat. 1984-1989~~ ~~ch. 110A, par. 711~~), shall satisfy this requirement if actively supervised and accompanied at hearing by an attorney with previous trial experience, in which case the supervising attorney shall make the certification.

3) That he or she shall accept appointment in return for compensation from the Board at the rate of 40-50 dollars per hour (30 dollars per hour for the time of law students and paralegals) plus ~~actual~~ costs, i.e., copying documents, subpoena fees, and subject to a maximum compensation limit of ~~2500-3500~~ dollars in any single cause. The maximum limit of ~~2500-3500~~ dollars may be increased in a particular case upon application to the Board if the circumstances of the case, including the number and complexity of the issues, demand the investment of time and expenses exceeding the limitation.

4) That he or she will maintain contemporaneous, careful records of time and expenses devoted to the case and will supply copies or summaries to the Board, together with bills for services rendered, at least monthly for each month in which time or costs are accrued.

5) Payment for personal services at the hourly rate is due upon completion of the Board proceedings in the cause. Payment of costs up to a total of 500 dollars are payable on a monthly basis for the month in which the costs are incurred. Costs totaling more than 500 dollars are payable at the completion of the proceedings before the Board and may be incurred only with prior approval of the Board e.g., in instances in which issues presented are numerous or call for

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numerous witnesses.

b) An attorney appointed by the Board to represent a charging party pursuant to this Section shall not withdraw from such employment without approval of the Board or its hearing officer.

(Source: Amended at 14 Ill. Reg. 19959, effective Nov 30, 1990.)

Section 1220.50 Hearings

a) Upon the issuance of a complaint for hearing, the Board shall set the matter for hearing before a hearing officer. The hearing shall be set NOT LESS THAN FIVE DAYS AFTER SERVING OF SUCH COMPLAINT. (~~Ill. Rev. Stat. 1985, ch. 48, par. 1611(a)~~ Section 11(a) of the Act).

b) Interested persons who wish to intervene in the hearing shall direct such requests to the hearing officer. The request shall be in writing and shall state the grounds for intervention. The hearing officer shall have discretion to grant or deny the request for intervention. The decision shall be based upon the interests of the intervenor, whether those interests will be adequately protected by existing parties, and the timeliness of the intervenor's request.

c) The hearing officer may schedule a prehearing conference when it appears to the hearing officer that such a conference would expedite the procedure.

d) Intermediate rulings of the hearing officer shall not be subject to interlocutory appeal. Parties may raise objections to such intermediate rulings in their exceptions to the hearing officer's recommended decision.

e) The charging party shall present the case in support of the charge. The respondent may present evidence in defense against the charges.

f) The hearing officer shall inquire fully into all matters in dispute, and shall obtain a full and complete record either by evidentiary hearing and/or stipulation. After the close of the hearing, the hearing officer shall file and serve on the parties a recommended decision.

(Source: Amended at 14 Ill. Reg. 19959, effective Nov 30, 1990.)

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Section 1220.80 Unfair Labor Practice Charges Involving Fair Share Fees

- a) Unfair labor practice charges that proportionate share fees violate the Act shall be filed and processed in accordance with this Part.
- b) The Board shall consolidate charges involving proportionate share fees in accordance with 80 ~~Illinois Administrative~~-Ill. Adm. Code 1200.105. Specifically, the Board shall consolidate in a single proceeding all proportionate share fee charges involving the same bargaining unit. The Board shall consolidate charges involving two or more bargaining units whenever it determines that the exclusive representatives are affiliated with a common employee organization, the exclusive representatives use similar methods for determining fair share fees, the consolidation would not prejudice the constitutional and statutory rights of the objecting employees, and the consolidation would resolve the charge in an efficient manner.
- c) In hearings on fair share fee charges, the exclusive representative shall have the burden of proving how the fair share fee was calculated and that the fee did not exceed the employee's proportionate share of THE COSTS OF THE COLLECTIVE BARGAINING PROCESS, CONTRACT ADMINISTRATION AND PURSUING MATTERS AFFECTING WAGES, HOURS AND CONDITIONS OF EMPLOYMENT. (~~Ill. Rev. Stat.~~-1985-ch 48, ~~para.~~-160-Sections 3(g) and 1606(e) of the Act).

(Source: Amended at 14 Ill. Reg. 19959, effective Nov 30, 1990)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

1) Heading of the Part:

Central Complaint Registry

2) Code Citation:

77 Ill. Adm. Code 400

3) Section Numbers:

400.100
400.110
400.120
400.130

Adopted Action:

New Section
New Section
New Section
New Section

4) Statutory Authority:

Abused and Neglected Long Term Care Facility Residents Reporting Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 4161 et seq.) and the Nursing Home Care Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 4151-101 et seq.)

5) Effective Date of Rules:

January 1, 1991

6) Does this Rulemaking Contain an Automatic Repeal Date? Yes ___ No X

If "yes," please specify date:

7) Does this Rulemaking Contain Any Incorporations by Reference? Yes ___ No X

If "yes," please specify type: 6.02(a) ___ or 6.02(b) ___

If "6.02(b)," was a copy of the approval form issued by the Joint Committee attached to this rulemaking? Yes ___ No ___

8) Date Filed in Agency's Principal Office:

November 27, 1990

9) Date Notice(s) of Proposal was Published in Illinois Register:

July 6, 1990 - 14 Ill. Reg. 10648

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objections to this/these Rules? Yes ___ No X

If "yes," please complete the following:

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- A) Statement of Objection: _____, Ill. Reg. _____
- B) Agency Response: _____, Ill. Reg. _____
- C) Date Agency Response Submitted for Approval to the Joint Committee: _____

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 400.120(b)(1)(A), "by an employee" is deleted.
2. In Section 400.120(b)(1)(C), "by an employee" is deleted in lines 2 and 3 and "employee" is changed to "person" in line 6.
3. In Section 400.120(b)(1)(D), "(as defined in Section 400.100)" is added after "Neglect."
4. In Section 400.120(b)(1)(D)(i), "Any" is changed to "The."
5. Section 400.120(b)(1)(D)(iii) is revised as follows: "The failure to provide or ensure medical attention for physical injuries to a resident or residents."
6. Section 400.120(b)(2) is revised as follows: "Evidence of abuse or neglect, such as a pattern or trend of unexplained injuries such as cuts, bruises, scratches, fractures, bleeding, or burns."
7. In Section 400.100, the definition of "Complaint," "call" is replaced with "report" in line 1.
8. In Section 400.130, "or by telephone" is added at the end of the first sentence.
9. In Section 400.120(a), "of the receipt of the complaint by the Central Complaint Registry" is added at the end of the first sentence.
10. The language "using pagers" is deleted in Section 400.110(b).
11. In Section 400.120(b)(1)(D)(ii), the Department changed "regularly uses" to "uses or needs."
12. In Section 400.120(c)(4), the Department added "on which the facility has not taken action."

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13. In Section 400.120(f), the Department added "and the Department's rules implementing the Freedom of Information Act (2 Ill. Adm. Code 1126)."

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

1. In Section 400.120(b)(1)(D)(ii), "clinically appropriate or" is deleted.
2. In Section 400.120(d), "formal" is deleted.
3. In Section 400.110(a), "The Abused and Neglected Long Term Care Facility Residents Reporting Act" is changed to "the Act."

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rules Replace an Emergency Rule Currently in Effect?

Yes ___ No X

- 14) Are there any other Amendments Pending on this Part? Yes ___ No X

If Yes:

Section Numbers	Proposed Action	Ill. Reg. Citation

- 15) Summary and Purpose of Rules:

The Department of Public Health is adopting these rules to implement Public Act 86-1013 (effective January 3, 1990), which amended the Abused and Neglected Long Term Care Facility Residents Reporting Act to require the Department to adopt rules setting forth standards and procedures for the operation of the Central Complaint Registry. The rules set forth the definitions and establish general requirements for the operation of the Central Complaint Registry; list the procedures that must be followed in

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filing a complaint; establish criteria to be used in determining whether abuse or neglect of a resident has occurred; and list the information that must be provided to the Department to withdraw a complaint.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Mr. Robert John Kane, Division of Governmental Affairs, Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, 217/782-6187.

The full text of the Adopted Rules begins on the next page:

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NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 400
CENTRAL COMPLAINT REGISTRY

Section	Definitions
400.100	General Requirements
400.110	Complaint
400.120	Complaint Withdrawal
400.130	

AUTHORITY: Implementing and authorized by the Abused and Neglected Long Term Care Facility Residents Reporting Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 4161 et seq.), and the Nursing Home Care Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 4151-101 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 19966, effective January 1, 1991.

NOTE: Capitalization denotes statutory language.

Section 400.100 Definitions

"ABUSE" MEANS ANY PHYSICAL INJURY, SEXUAL ABUSE OR MENTAL INJURY INFLICTED ON A RESIDENT OTHER THAN BY ACCIDENTAL MEANS.
(Section 3(d) of the Act)

"Act" means The Abused and Neglected Long Term Care Facility Residents Reporting Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 4161 et seq.).

"Complaint" means any report describing a problem with the care and treatment of a resident or with the general quality of care in a long-term care facility licensed by the Department that violates the requirements of 77 Ill. Adm. Code 300, 330, 350, 370, or 390. A complaint may be submitted by means of a telephone call, letter, or office visit.

"Department" means the Illinois Department of Public Health.

"Immediately" or "Immediately" means within twenty-four hours.

"LONG TERM CARE FACILITY" means THE SAME MEANING AS IN THE NURSING HOME CARE ACT (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 4151-101 et seq.) EXCEPT THAT THE TERM SHALL INCLUDE ANY MENTAL HEALTH FACILITY OR DEVELOPMENTAL DISABILITY FACILITY AS DEFINED IN THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE (Ill. Rev. Stat.

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NOTICE OF ADOPTED RULES

1989, ch. 91 1/2, pars. 1-100 et seq.). (Section 3(c) of the Act)

"NEGLECT" MEANS A FAILURE IN A LONG TERM CARE FACILITY TO PROVIDE ADEQUATE MEDICAL OR PERSONAL CARE OR MAINTENANCE, WHICH FAILURE RESULTS IN PHYSICAL OR MENTAL INJURY TO A RESIDENT OR IN THE DETERIORATION OF A RESIDENT'S PHYSICAL OR MENTAL CONDITION. (Section 3(e) of the Act)

"RESIDENT" MEANS A PERSON RESIDING IN AND RECEIVING PERSONAL CARE FROM A LONG TERM CARE FACILITY, OR RESIDING IN A MENTAL HEALTH FACILITY OR DEVELOPMENTAL DISABILITY FACILITY AS DEFINED IN THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE. (Section 3(b) of the Act)

Section 400.110 General Requirements

a) THERE SHALL BE A CENTRAL REGISTER OF ALL CASES OF SUSPECTED LONG TERM CARE FACILITY RESIDENT ABUSE OR NEGLECT REPORTED AND MAINTAINED BY THE DEPARTMENT UNDER THE ACT. THROUGH THE RECORDING OF INITIAL, PRELIMINARY, PROGRESS, AND FINAL REPORTS, THE CENTRAL REGISTER SHALL BE OPERATED IN SUCH A MANNER AS TO ENABLE THE DEPARTMENT TO:

- 1) IMMEDIATELY IDENTIFY AND LOCATE PRIOR REPORTS OR CASES OF ABUSE OR NEGLECT;
- 2) CONTINUOUSLY MONITOR THE CURRENT STATUS OF ALL CASES OF ABUSE OR NEGLECT BEING PROVIDED SERVICES UNDER THE ACT; AND
- 3) REGULARLY EVALUATE THE EFFECTIVENESS OF EXISTING LAWS AND PROGRAMS THROUGH THE DEVELOPMENT AND ANALYSIS OF STATISTICAL AND OTHER INFORMATION. (Section 14 of the Act)

b) THERE SHALL BE A SINGLE STATEWIDE, TOLL-FREE TELEPHONE NUMBER ESTABLISHED AND MAINTAINED BY THE DEPARTMENT WHICH ALL PERSONS, WHETHER OR NOT MANDATED BY LAW, MAY USE TO REPORT SUSPECTED LONG TERM CARE FACILITY RESIDENT ABUSE OR NEGLECT AT ANY HOUR OF THE DAY OR NIGHT, ON ANY DAY OF THE WEEK. ANY OTHER PERSON MAY USE THE STATEWIDE NUMBER TO OBTAIN ASSISTANCE OR INFORMATION CONCERNING THE HANDLING OF LONG TERM CARE FACILITY RESIDENT ABUSE AND NEGLECT CASES. (Section 13 of the Act). The Central Complaint Registry operates a toll-free statewide telephone line, twenty-four hours a day. Calls are received Monday through Friday, 8:00 a.m. to 5:30 p.m., at the Department's offices at 525 W. Jefferson, Springfield, Illinois 62761. Coverage of the Central Complaint Registry continues after 5:30 p.m. and weekends and holidays by Central Complaint Registry staff, who are contacted at private telephones by an answering service.

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NOTICE OF ADOPTED RULES

Section 400.120 Complaint

a) All complaint investigations shall be initiated within 30 days of the receipt of the complaint by the Central Complaint Registry. THE DEPARTMENT SHALL INITIATE AN INVESTIGATION OF EACH REPORT OF RESIDENT ABUSE AND NEGLECT, WHETHER ORAL OR WRITTEN, AS PROVIDED FOR IN SECTION 3-702 OF THE NURSING HOME CARE ACT, EXCEPT THAT REPORTS OF ABUSE OR NEGLECT WHICH INDICATE THAT A RESIDENT'S LIFE OR SAFETY IS IN IMMINENT DANGER SHALL BE INVESTIGATED WITHIN 24 HOURS OF SUCH REPORT. (Section 6 of the Act)

b) Abuse or Neglect

All persons required by Section 4 of the Act, including facility employees, shall notify the Central Complaint Registry when abuse or neglect of a resident is suspected. Criteria to be used in determining whether abuse or neglect is suspected include, but are not limited to:

- 1) Direct observation of abuse or neglect, such as:
 - A) Physical abuse, which may include but is not limited to hitting, kicking, pinching, choking, shoving, pushing, biting, slapping, punching, striking with an object, burning, or cutting of a resident;
 - B) Sexual abuse, which may include but is not limited to any sexual penetration or sexual conduct;
 - C) Verbal or psychological abuse, which may include but is not limited to the use of words, signs, or gestures to intimidate, demean, curse, harass, cause emotional anguish or distress, ridicule, or threaten harm to the resident, or words, signs or gestures or actions that the person knows for that particular resident will or are likely to precipitate maladaptive or regressive behavior by that resident;
 - D) Neglect (as defined in Section 400.100), which may include but is not limited to:
 - i) The failure to carry out required clinical or habilitation services as directed or ordered by a physician or other authorized personnel;
 - ii) The failure to provide for the resident's personal hygiene needs or the withholding of food, fluids, clothing, or prosthetic devices or other personal care

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NOTICE OF ADOPTED RULES

items that the resident uses or needs unless ordered by a physician or other authorized personnel and documented in the resident's record;

- iii) The failure to provide or ensure medical attention for physical injuries to a resident or residents.

- 2) Evidence of abuse or neglect, such as a pattern or trend of unexplained injuries such as cuts, bruises, scratches, fractures, bleeding, or burns.

c) Emergency Situations

When the allegations are of an emergency nature, the Department will evaluate the facts and determine an investigation schedule pursuant to Section 3-702 of the Nursing Home Care Act. Examples of emergency situations include, but are not limited to:

- 1) Hazardous environmental conditions, such as heating and cooling problems, fire safety issues, and chemical fumes;
- 2) Missing persons;
- 3) Life-threatening communicable diseases, such as hepatitis, influenza, and symptoms of food-borne illness;
- 4) Threats of suicide on which the facility has not taken action.

- d) The caller will be interviewed to assess the nature of the call and to determine whether the caller wishes to file a complaint. The Department will determine whether the facility in question is licensed by the Department and confirm the name and address of the facility. Specific information concerning the allegations will be requested by questions, including but not limited to the following:

- 1) Date and time or shift of the incident;
 - 2) Name(s) and location of the resident(s), staff, family and visitors involved;
 - 3) Relationship of the caller to the resident or facility;
 - 4) Condition and status of the resident;
 - 5) Details of the situation.
- e) The caller will be questioned concerning whether he wishes to provide his name. The Department will respect the confidentiality of the

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caller.

- f) Because of the confidentiality of complaints, information concerning complaints will be provided only upon written request pursuant to the Freedom of Information Act (Ill. Rev. Stat. 1989, ch. 116, pars. 201 et seq.) and the Department's rules implementing the Freedom of Information Act (2 Ill. Adm. Code 1126).

- g) Information about the complaint, including date and time of complaint, caller's name, name and license number of the facility and the specific allegations registered, is maintained by the Department.

- h) The complaint report is prepared using the information gathered from the interview.

Section 400.130 Complaint Withdrawal

A request to withdraw a complaint may be made to the Central Complaint Registry in writing or by telephone. The original caller or agency must make the request.

- a) The name, address, telephone number and relationship of the caller will be verified.
- b) The identity of the reported facility will be determined, as well as the date and approximate time of the call.
- c) All residents involved and the allegations made will be identified.
- d) The reason for the request to withdraw the complaint will be requested.

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part:

Food Service Sanitation Code

2) Code Citation:

77 Ill. Adm. Code 750

3) Section Numbers:

750.540

Adopted Action:

Amendment

4) Statutory Authority:

AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof (Ill. Rev. Stat. 1989, ch. 56 1/2, pars. 67 et seq.)

"AN ACT providing for the enforcement of certain state and local food handling and health regulations." (Ill. Rev. Stat. 1989, ch. 56 1/2, pars. 331 et seq.). As amended by P.A. 86-704, effective January 1, 1990.

The Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1989, ch. 56 1/2, pars. 501 et seq.).

5) Effective Date of Rules:

January 1, 1991

6) Does this Rulemaking Contain an Automatic Repeal Date? Yes ☐ No ☒

If "yes," please specify date:

7) Does this Rulemaking Contain Any Incorporations by Reference? Yes ☐ No ☒If "yes," please specify type: 6.02(a) ☐ or 6.02(b) ☐

If "6.02(b)," was a copy of the approval form issued by the Joint Committee attached to this rulemaking? Yes ☐ No ☐

8) Date Filed in Agency's Principal Office:

November 30, 1990

9) Date Notice(s) of Proposal was Published in Illinois Register:

July 13, 1990 - 14 Ill. Reg. 11110

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? Yes ☐ No ☒

If "yes," please complete the following:

A) Statement of Objection: ☐ Ill. Reg. ☐B) Agency Response: ☐ Ill. Reg. ☐C) Date Agency Response Submitted for Approval to the Joint Committee:11) Difference Between Proposal and Final Version:

No changes were made in response to comments received during the first notice or public comment period.

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

The Department will update all references to the Illinois Revised Statutes to reflect the 1989 edition.

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect?Yes ☐ No ☒14) Are there any other Amendments Pending on this Part? Yes ☐ No ☐

If Yes:

Section Numbers	Proposed Action	Ill. Reg. Citation
750.540	Amendments	14 Ill. Reg. 5050
750.551	New Section	14 Ill. Reg. 5050
750.560	Amendments	14 Ill. Reg. 5050

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NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rules:

The Food Service Sanitation Manager Certification program and existing rules provide for the education, testing and certification of food service operators. The proposed amendments would remove an existing rule, effective January 1, 1991, which states that a food service establishment shall have a certified supervisor present at all times food is handled. The proposed amendment replaces the existing requirement with the original language requiring only one full-time certified supervisor for each establishment as it was adopted by the Department over a decade ago.

The anticipated economic effect of this rulemaking is unknown. Therefore, the Department would appreciate any comments on the anticipated economic effect.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Gail M. DeVito, Division of Governmental Affairs, Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761, 217/782-6187.

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 750

FOOD SERVICE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Section
750.5 Incorporated Materials
750.10 Definitions
750.20 Inspections and Inspection Report

SUBPART B: FOOD SUPPLIES

Section
750.100 General
750.110 Special Requirements
750.120 General - Food Protection
750.130 General - Food Storage
750.140 Refrigerated Storage
750.150 Hot Storage
750.155 Damaged Food Containers
750.160 General - Food Preparation
750.170 Raw Fruits and Raw Vegetables
750.180 Cooking Potentially Hazardous Foods
750.190 Dry Milk and Dry Milk Products
750.200 Liquid, Frozen, Dry Eggs and Egg Products
750.210 Reheating
750.220 Nondairy Products
750.230 Product Thermometers
750.240 Thawing Potentially Hazardous Foods
750.250 Food Display and Service of Potentially Hazardous Food
750.260 Display Equipment
750.270 Reuse of Tableware
750.280 Dispensing Utensils
750.290 Ice Dispensing
750.300 Condiment Dispensing
750.310 Milk and Cream Dispensing
750.320 Re-Service
750.330 General - Food Transportation

SUBPART C: PERSONNEL

Section
750.500 General - Employee Health
750.510 General - Personal Cleanliness

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750.520 General - Clothing
 750.530 General - Employee Practices
 750.540 Management Sanitation Training and Certification
 750.550 Management Sanitation Certification Examination (Repealed)
 750.560 Certificate Revocation or Suspension

SUBPART D: EQUIPMENT AND UTENSILS

Section
 750.600 General - Materials
 750.610 Solder
 750.620 Wood
 750.630 Plastics
 750.640 Mollusk and Crustacea Shells
 750.650 General - Design and Fabrication
 750.660 Accessibility
 750.670 In-Place Cleaning
 750.680 Thermometers
 750.690 Non-Food-Contact Surfaces
 750.700 Ventilation Hoods
 750.710 General - Equipment Installation and Location
 750.720 Table-Mounted Equipment
 750.730 Portable Equipment
 750.740 Floor-Mounted Equipment
 750.750 Aisles and Working Spaces

SUBPART E: CLEANING, SANITIZING, AND STORAGE OF EQUIPMENT AND UTENSILS

Section
 750.800 Cleaning Frequency
 750.810 Wiping Cloths
 750.820 Manual Cleaning and Sanitizing
 750.830 Mechanical Cleaning and Sanitizing
 750.840 Drying
 750.850 Equipment, Utensil, and Tableware Handling
 750.860 Equipment, Utensil, and Tableware Storage
 750.870 Pre-Set Tableware
 750.880 Single-Service Articles
 750.890 Prohibited Storage Area

SUBPART F: SANITARY FACILITIES AND CONTROLS

Section
 750.1000 General - Water Supply
 750.1010 Transportation
 750.1020 Bottled Water
 750.1030 Water Under Pressure

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750.1040 Steam
 750.1050 General - Sewage Disposal
 750.1060 General - Plumbing
 750.1070 Nonpotable System
 750.1080 Backflow
 750.1090 Grease Traps
 750.1100 Drains
 750.1110 General - Toilet Facilities
 750.1120 General - Lavatory Facilities
 750.1130 Containers - Garbage and Refuse
 750.1140 Garbage and Refuse Storage
 750.1150 Disposal of Garbage and Rubbish
 750.1160 General - Insect and Rodent Control
 750.1170 Protection of Openings Against Entrance of Insects and Rodents

SUBPART G: CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES

Section
 750.1200 General - Floors
 750.1210 General - Walls and Ceilings
 750.1220 General - Cleaning Physical Facilities
 750.1230 General - Lighting
 750.1240 Protective Light Shielding
 750.1250 General - Ventilation
 750.1260 Special Ventilation
 750.1270 Dressing Areas
 750.1280 Lockers
 750.1290 Poisonous or Toxic Materials Permitted
 750.1300 Labeling of Poisonous or Toxic Materials
 750.1310 Storage of Poisonous or Toxic Materials
 750.1320 Use of Poisonous or Toxic Materials
 750.1330 Personal Medications
 750.1340 First-Aid Supplies
 750.1350 General - Premises
 750.1360 Living Areas
 750.1370 Laundry Facilities
 750.1380 Linens and Clothes Storage
 750.1390 Cleaning Equipment Storage
 750.1400 Animals

SUBPART H: MOBILE FOOD SERVICE

Section
 750.1500 General - Mobile Food Units
 750.1510 Restricted Operation
 750.1520 Single-Service Articles
 750.1530 Water Systems

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750.1540 Waste Retention
 750.1550 Base of Operations
 750.1560 Servicing Area
 750.1570 Servicing Operations

SUBPART I: TEMPORARY FOOD SERVICE

750.1600 General - Temporary Food Service Establishments
 750.1610 Restricted Operations
 750.1620 Ice
 750.1630 Equipment
 750.1640 Water
 750.1650 Wet Storage
 750.1660 Waste Disposal
 750.1670 Handwashing
 750.1680 Floors
 750.1690 Walls and Ceilings of Food Preparation Areas
 750.1700 Single-Service Articles

SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION

750.1800 General
 750.1810 Instructor Approval
 750.1815 Instructor Denial
 750.1820 Course Content
 750.1830 Course Approval
 750.1835 Make Up Work
 750.1836 Home Study
 750.1837 Course Waiver
 750.1838 Course Denial
 750.1840 Reciprocity
 750.1850 Certification Examination
 750.1860 Examination Notification
 750.1861 Class Enrollment Form
 750.1862 Administration of Examination
 750.1865 Monitors
 750.1868 Cheating
 750.1870 Re-test Class
 750.1876 Dictionary
 750.1880 Retake Examination
 750.1890 Certificates
 750.1895 Change of Address
 Appendix A Retail Food Sanitary Inspection Report
 Appendix B Examination Date Notification Form
 Appendix C Class Enrollment Form
 Appendix D Permission to Retake Certification Examination Form

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act

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NOTICE OF ADOPTED AMENDMENTS

(Ill. Rev. Stat. 1987, ch. 55 1/2, pars. 501 et. seq.) and "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 56 1/2, pars. 67 et. seq.) and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act (Ill. Rev. Stat. 1987, ch. 56 1/2, par. 521) and Section 11.1 of "AN ACT to prevent the preparation, manufacture, packing, storing, or distributing of food intended for sale, or sale of food, under insanitary, unhealthful or unclean conditions or surroundings, to create a sanitary inspection, to declare that such conditions shall constitute a nuisance, and to provide for the enforcement thereof" (Ill. Rev. Stat. 1987, ch. 56 1/2, par. 77.1).

SOURCE: Adopted December 23, 1975; amended at 2 Ill. Reg. 19, P. 180, effective May 3, 1978; old rules repealed and new rules adopted and codified at 7 Ill. Reg. 1336, effective January 25, 1983; amended at 11 Ill. Reg. 2345, effective February 1, 1987; amended at 11 Ill. Reg. 18735, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14380, effective September 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17913, effective December 1, 1988; amended at 13 Ill. Reg. 1819, effective January 30, 1989; amended at 13 Ill. Reg. 18888, effective December 1, 1989; amended at 14 Ill. Reg. 19975, effective January 1, 1991;-----

Section 750.540 Management Sanitation Training and Certification

- a) All food service establishments as defined in Section 750.10 shall be under the operational supervision of a certified manager or supervisor. As of January 1, 1991, there shall be a minimum of one certified supervisor at each establishment at all times food is handled. -- Until January 1, 1991, a minimum of one, full-time certified supervisor shall be required at each establishment is required; provided, however:
 - 1) That new food service establishments shall have six (6) months from the initial day of operation to comply.
 - 2) That food service establishments which are not in compliance because of employee turnover or other loss of certified personnel, shall have three (3) months from date of loss of certified personnel to comply.
- b) Certification shall be achieved by successfully completing department approved course and monitored examination offered by the Illinois Department of Public Health, the Educational Foundation (250 North Wacker Drive, Chicago, Illinois 60606) or the Educational Testing

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NOTICE OF ADOPTED AMENDMENTS

Service (1 Rotary Center, Suite 300, 1560 Sherman Avenue, Evanston, Illinois 60201) An approved course and examination shall be in compliance with Subpart J of this Part.

- c) Names and certificate numbers of certified personnel shall be maintained at the place of business and shall be made available for inspection.

(Source: Amended at 14 Ill. Reg. 19975 , effective January 1, 1991)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part:

WIC Vendor Management Code

- 2) Code Citation:

77 Ill. Adm. Code 672

- 3) Section Numbers:

Adopted Action:

672.100	New Section
672.105	New Section
672.110	New Section
672.115	New Section
672.200	New Section
672.205	New Section
672.210	New Section
672.215	New Section
672.220	New Section
672.225	New Section
672.300	New Section
672.305	New Section
672.310	New Section
672.315	New Section
672.400	New Section
672.405	New Section
672.410	New Section
672.415	New Section
672.420	New Section
672.425	New Section
672.430	New Section
672.435	New Section
672.440	New Section
672.445	New Section
672.450	New Section
672.455	New Section
672.460	New Section
672.465	New Section
672.500	New Section
672.505	New Section
672.510	New Section
672.515	New Section
672.520	New Section
672.525	New Section
672.600	New Section
672.605	New Section
672.610	New Section
672.615	New Section
672.620	New Section

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Section Numbers:

Adopted Action:

672.625 New Section
672.630 New Section
672.635 New Section
672.640 New Section
672.645 New Section
672.650 New Section
672.655 New Section
672.660 New Section
672.665 New Section
672.670 New Section
672. Appendix A

4) Statutory Authority:

The WIC Vendor Management Act
Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7551 et seq.

5) Effective Date of Rules:

December 1, 1990

6) Does this Rulemaking Contain an Automatic Repeal Date? Yes ☐ No ☒

If "yes," please specify date:

7) Does this Rulemaking Contain Any Incorporations by Reference? Yes ☒ No ☐

If "yes," please specify type: 6.02(a) ☒ or 6.02(b) ☐

If "6.02(b)" was a copy of the approval form issued by the Joint Committee attached to this rulemaking? Yes ☐ No ☐

8) Date Filed in Agency's Principal Office:

December 1, 1990

9) Date Notice(s) of Proposal was Published in Illinois Register:

7/13/90 - 14 Ill. Reg. 11132

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? Yes ☐ No ☒

If "yes," please complete the following:

A) Statement of Objection: ☐ Ill. Reg. ☐

- B) Agency Response: ☐ Ill. Reg. ☐
- C) Date Agency Response Submitted for Approval to the Joint Committee: ☐

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments received during the first notice or public comment period:

1. The Table of Contents' heading has been corrected to read "SUBCHAPTER i: MATERNAL AND CHILD HEALTH."
2. In Subpart F, last entry, 672. Appendix A Illinois Regional Map, has been moved down one space.
3. In the Authority note, "ACT" has been corrected to read "Act" and a parenthesis has been added to close the end of the citation.
4. In Section 672.100, the name of "Act" has been corrected to read "Act" means The WIC Vendor Management Act. (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7551 et seq.).

In the same Section, "Department" has been corrected to read "Department" means the Illinois Department of Public Health. (Section 3(a) of the Act)

In "IAPA" definition, the "s" from "Procedures" has been deleted.

5. In Section 672.105(a), "s" in "Sections" has been capitalized.

6. In Section 672.110, lines one and three, "these rules" have been corrected to read "this Part."

7. In Section 672.210(a)(7)(10), the last Ill. Rev. Stat. references have been deleted.

8. In Section 672.305(b), line one, "Section" has been corrected to read "subsection."

9. In Section 672.440 (instead of 672.400), the Ill. Rev. Stat. reference has been deleted, along with the word "Parts."

10. Appendix A has been corrected to read "Section 672. Appendix A Illinois Regional Map."

11. Throughout the rules, the Department changed "FI" to "Food Instrument."

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12. Section 672.100

Delete

"WOMEN, INFANTS, AND CHILDREN NUTRITION PROGRAM" AND "WIC" MEANS THE FEDERAL SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN INFANTS AND CHILDREN CREATED BY FEDERAL PUBLIC ACT 92-433, AS AMENDED. (Section 3(a) of the Act)"

Insert

"WOMEN, INFANTS, AND CHILDREN NUTRITION PROGRAM" AND "WIC" MEANS THE FEDERAL SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN INFANTS AND CHILDREN authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786). (Section 3(a) of the Act)"

Insert

"Department Estimated Cost" means self reported Vendor prices on the Vendor Retail Price Survey, which are averaged and weighted by Store Type and Region from the Vendor Price Survey."

Insert

"Invalid Vendor" means a Food Instrument deposited or mailed by a Vendor which has been encoded and rejected by the Department's contract bank for the following reasons: the Food Instrument has not been stamped with the Vendor Number, the Vendor Number is unauthorized, unreadable, not in the space indicated, or a counterfeit Vendor Stamp is used. Typed or handwritten numbers shall not be accepted."

13. Section 672.200(a) and (b)

Delete

"a) Regions one (1) through eight (8) shall be greater than 40:1, but less than 120:1.

b) Region nine (9) shall be greater than 75, but less than 160:1."

Insert

"a) Regions one (1) through six (6) shall be greater than 40:1, but less than 120:1.

b) Regions seven (7), eight (8), and nine (9) shall be greater than 75, but less than 175:1.

14. Section 672.200

Delete

"Upon receipt of the Application, the Department shall utilize Participant/Vendor Ratios and shall consider Participant needs within geographical locations to determine if the Application meets the Regional P/V Ratio to be eligible for selection."

Insert

"Upon receipt of the Application, the Department shall

DEPARTMENT OF PUBLIC HEALTH

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utilize Participant/Vendor Ratios and shall consider Participant needs within geographical locations to determine if the Applicant meets the Regional Participant/Vendor Ratio to be eligible for selection."

15. In Section 672.220(f)

Delete

"The Applicant has previously been authorized as a WIC Vendor and the Applicant's charges as a Vendor for WIC Foods, for a minimum of three (3) months during the contract period, were:"

Insert

"With the exception of Pharmacies, the Applicant has previously been authorized as a WIC Vendor and the Applicant's charges as a Vendor for WIC Foods, for a minimum of three (3) months during the contract period, were:"

16. Section 672.215(a)

Delete

"Foods which qualify for delivery to WIC Participants shall be determined by the Department in accordance with 7 CFR 246.10 and placed upon a list which shall be made public. This list shall be printed and distributed at least once each calendar year."

Insert

"Foods which qualify for delivery to WIC Participants shall be determined by the Department in accordance with 7 CFR 246.10 and placed upon a list which shall be made public. This list shall be printed and distributed at least once each year with the effective date of implementation printed on the face of the list."

17. Section 672.215(b)(1) and (2)

Delete

"All Vendors in ZIP code prefix 606 of the City of Chicago shall maintain sufficient quantities to provide food for three (3) participants."

"All Vendors outside of the City of Chicago (not within ZIP code area prefix 606 of Chicago) shall maintain sufficient quantities to provide food for two (2) participants."

Insert

"All Vendors in ZIP code prefix 606 of the City of Chicago shall maintain sufficient quantities to provide food for three (3) infants, three (3) children, and three (3) women."

"All Vendors outside of the City of Chicago (not within ZIP code area prefix 606 of Chicago) shall maintain sufficient

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quantities to provide food for two (2) infants, two (2) children, and two (2) women."

18. Section 672.220(f)(1)

- Delete "1) more than the Department's estimated costs for those WIC Foods as reflected in the Vendor Price Survey; or"
- Insert "1) more than the Department Estimated Costs for those WIC Foods as reflected in the Vendor Price Survey; or"

19. Section 672.220

- Insert g) The Applicant has previously been authorized as a WIC Vendor and the Applicant had more than one percent (1.0%), of all Food Instruments submitted to the contract bank, rejected per month for a maximum of 3 months during a contract period.

20. Section 672.310(a)

- Delete "a) Each representative from all Vendor Sites shall be notified and shall participate in an annual Department sponsored training program."
- Insert "a) Unless a Vendor has attended an initial WIC Retail Vendor training meeting, during the contract period, a representative from each Vendor Sites shall be notified and shall participate in an annual Department sponsored training program."

21. Section 672.315(a)

- Delete "Any WIC Retail Vendor who has been found to have committed a Class A . . . more than one (1) WIC Retail Vendor Site at any compliance workshop."
- Insert "Any WIC Retail Vendor who has been found to have committed a Class A, Class B or Class C Violation, as defined in Section 672.505, shall be required to attend a compliance training workshop as required in Section 672.510. Any Vendor required to attend shall not represent more than one (1) WIC Retail Vendor Site at any compliance workshop. Attendance at the compliance training workshop shall not be required if the Vendor is terminated from Authorization."

22. Section 672.415 (d)

- Delete "d) The Vendor shall ensure that the food items selected

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by the WIC Participant or Proxy are authorized WIC Foods and are the same as those on the Food Instrument."

- Insert "d) The Vendor shall ensure that the food items that the Participant or Proxy chooses to obtain, from the food items listed on the Food Instrument, are authorized WIC Foods and are the food items stated on the Food Instrument."

23. Section 672.415(g)

- Delete "The Vendor shall stamp the assigned four (4) digit Vendor Number on the Food Instrument in the space indicated."
- Insert "The Vendor shall stamp the assigned four (4) digit Vendor Number on the Food Instrument in the space indicated. Upon notification by the Department, Vendors shall be given the option to batch the Food Instruments, stamp a deposit slip with the assigned Four (4) digit Vendor Number and send the Food Instruments to the Department's contract bank's lock box. For presentation of Food Instruments, the contract bank deposit slip shall be completed, in lieu of stamping the Four (4) digit Vendor Number on each Food Instrument."

24. Section 672.415(h)

- Delete "The Vendor shall deposit the Food Instrument in a local financial institution within sixty (60) days from the "First Day To Use" printed on the Food Instrument."
- Insert "The Vendor shall deposit the Food Instrument in a local financial institution or the Department's contract bank within sixty (60) days from the "First Day To Use" printed on the Food Instrument."

25. Section 672.420(a)(3)

- Delete "Submission of a Food Instrument identified by the Department or the financial institution as being invalid, viod, or previously paid."
- Insert "Submission of a Food Instrument identified by the Department or the Department's contract bank as Invalid Vendor."

26. Section 672.420(b)

- Delete "Food Instruments deposited in a financial institution

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without the Participant signature, with a missing, inaccurate, or Invalid Vendor Number, or submitted for payment before the "First Day To Use" shall not be paid.

Insert

"b) "Food Instruments presented to the Department's contract bank without the Participant signature, with a missing, inaccurate, or Invalid Vendor Number, or submitted for payment before the "First Day To Use," altered Food Instruments; or Food Instruments which have not been obligated by the local agency (stolen stock) shall not be paid. Appeal procedures for Food Instruments rejected as "Invalid Vendor" are stated below.

- 1) A notarized letter of request for payment shall be sent to the Department with copies of the rejected Food Instruments. This letter shall state that the actual dollar value, on each Food Instrument which the Vendor intends to re-submit, does not exceed the original actual amount of sale which was indicated on the Food Instrument at the first presentation to the contract bank. This request shall be post marked within fifteen (15) days from the first presentation of the Food Instruments at the Department's contract bank.

The Vendor shall pay the Department a non-refundable processing fee of fifteen dollars (\$15) per occurrence, submission of Food Instrument(s) on a specific date and three dollars (\$3), for each rejected Food Instrument re-submitted. The cashier's check or money order shall be made payable to the Department of Public Health WIC Program and shall accompany the notarized letter and the copy of the Food Instruments which the Vendor is requesting clearance to re-submit. The Department shall review the request and the Food Instruments for the actual amount of sale and the date of presentation at the contract bank. If the Food Instruments pass review, the Department shall send a certified letter of clearance to the Vendor, which shall provide seven (7) calendar days in which the contract bank is authorized by the Department to accept the Food Instruments for re-submission.

- 2) Upon notification by the Department, Vendors shall have the option to mail Food Instruments directly to the Department's contract bank

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utilizing a deposit slip and the contract bank lock box. Vendors utilizing this method shall not be required to put the Vendor Stamp on each Food Instrument. For presentation of Food Instruments, only the contract bank deposit slip shall be completed. The Vendor using this method shall be subject to and responsible for any service charges of the contract bank. Any Vendor that has a current account with the Department's contract bank and uses the deposit slip method and lock box, for submission of Food Instruments, shall also only be subject to the service charge of the contract bank. With either method, a notarized letter of request and copies of the Food Instruments rejected for Invalid Vendor shall be sent to the Department as described in subsection (b)(1). The Vendor shall only be subject to the contract bank service charges.

- c) Excessive rejection of Food Instruments shall be grounds for denial of authorization of the Vendor's Contract as cited in Section 672.220(g).

27. Section 672.425 (a)

Delete

"The Vendor shall monitor the WIC Foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food specified on the Food Instrument. Pharmacies or drug stores which only redeem Food Instrument for infant packages, i.e. infant formula, infant cereal, an infant juice, shall be exempt from the minimum stock requirements of those foods which are not in the Infant Package. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within twenty-four (24) hours."

Insert

"The Vendor shall monitor the WIC Foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food specified on the Food Instrument. Pharmacies or drug stores shall be exempt from the minimum stock requirement. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within twenty-four (24) hours."

28. Section 672.425 (h)

Delete

"h) The Vendor shall grant sale prices to Participants on Food Instruments and shall honor coupons and discounts for WIC Foods."

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Insert "h) The Vendor shall charge the Department sale prices. The value of coupons and discounts shall be deducted from the price charged to the Department. The Participant shall not be given cash for the difference."

29. Section 672.425(p)

Delete "The Vendor shall not seek restitution from WIC Participants for Food Instruments not paid by the Department or fines levied by the Department and/or an financial institution form the Department for monetary penalties for rejected Food Instruments."

Insert "The Vendor shall not seek restitution from WIC Participants for Food Instruments not paid by the Department or fines levied by the Department, a financial institution or the Department's contract bank. The Vendor shall not seek or receive restitution from the Department for monetary penalties for rejected Food Instruments."

30. Section 672.505 (b)(6)

Delete "(6) Accepting any remuneration for the difference between the maximum value of the Food Instrument and the shelf price of the WIC Foods."

Insert "(6) Accepting any remuneration for the difference between the maximum value of the Food Instrument and the shelf price of the WIC Foods."

31. Section 672.605

Delete "The parties to administrative hearings before the Department are Department and applicants or Vendors."

Insert "The Department and the Applicants or Vendors shall be the only parties to administrative hearings before the Department."

32. Section 672.615(a)(1)(E)

Delete "E) unless accompanied by a notice of violation and a short, plain statement of the matters asserted."

Insert "(E) unless accompanied by a notice of violation, a short, plain statement of the matters asserted."

The following changes were made in response to comments and suggestions of

the Joint Committee on Administrative Rules:

In Section 672.100

Delete "Applicant" means the individual, partnership, limited partnership, or corporation applying to be a WIC Retail Vendor.

Insert "Applicant" means the individual, partnership, limited partnership, unincorporated association, or corporation applying to be a WIC Retail Vendor.

In Section 672.100

Delete "Corporate Officer" means the identity of the officer of a Corporation as set forth in its Articles of Incorporation as filed with the State wherein such entity is incorporated.

Insert "Corporate Officer" means the identity of the officer of a Corporation as set forth in its Articles of Incorporation as filed with the Secretary of State wherein such entity is incorporated.

In Section 672.100

Delete "Food Instrument" or "FI" means a negotiable voucher issued by a Local Agency that specifies the quantity, size, and type of authorized foods for a WIC Participant within a designated time period, which can subsequently be taken to a Vendor for exchange for the specified quantities of food.

Insert "Food Instrument" or "FI" means a negotiable voucher issued by a Local Agency that specifies the quantity, size, and type of authorized foods available to WIC Participant within a designated time period, which can subsequently be taken to a Vendor in exchange for the specified quantities of food.

In Section 672.100

Delete "Store Type" means the classification of WIC Retail Vendors by the number of active customer check-out lanes/cash registers. One or two lanes is a type 1 Vendor Site. Three or four lanes is a type 2 Vendor Site. Five to seven lanes is a type 3 store. Eight or more lanes is a type 4 Vendor Site. A Pharmacy is a type 5 vendor site.

Insert "Store Type" means the classification of WIC Retail Vendors by the number of active customer check-out lanes/cash registers. One or two lanes is a type 1 Vendor Site. Three or four lanes is a type 2 Vendor Site. Five to seven lanes is a type 3 Vendor

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Site. Eight or more lanes is a type 4 Vendor Site. A Pharmacy is a type 5 Vendor Site.

In Section 672.100

Delete

"USDA WIC Regulations" means the Regulations of the United States Department of Agriculture, Food and Nutrition Service, Special Supplemental Food Program for Women, Infants, and Children. 7 CFR 246 (1990)

Insert

"USDA WIC Regulations" means the Regulations of the United States Department of Agriculture, Food and Nutrition Service, Special Supplemental Food Program for Women, Infants, and Children. 7 CFR 246 (1990)

In Section 672.100

Delete

"Vendor" or "WIC Retail Vendor" means the individual, partnership, limited partnership, or corporation authorized by the Department to accept Food Instruments and to provide supplemental food to WIC Participants or Proxies of WIC Participants.

Insert

"Vendor" or "WIC Retail Vendor" means the individual, partnership, limited partnership, unincorporated association, or corporation authorized by the Department to accept Food Instruments and to provide supplemental food to WIC Participants or Proxies of WIC Participants.

In Section 672.100

Delete

"WIC Food List" means the published list of Illinois authorized WIC Foods.

Insert

"WIC Food List" means the published list of State of Illinois authorized WIC Foods.

In Section 672.100

Delete

"WIC Foods" means those competitively priced foods determined by the Department to be nutritionally qualified for the Program, in Illinois, and which have been placed on the WIC Food List.

Insert

"WIC Foods" means those competitively priced foods which have been placed on the WIC Food List, which have been determined by the Department to be nutritionally qualified for the WIC Program in the State of Illinois.

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In Section 672.100

Delete

"WIC Vendor Contract" means a binding agreement signed by the WIC Retail Vendor and the Department for the provision of WIC Foods to Participants.

Insert

"WIC Vendor Contract" means an agreement signed by the WIC Retail Vendor and the Department for the provision of WIC Foods to Participants.

In Section 672.105(a)(3)

Delete

3) The Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127), par. 132.11-1 et seq.) (Sections 672.210(a)(5) and (7) and 672.435)

Insert

3) The Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, par. 132.11-1 et seq.) (Sections 672.210(a)(5) and (7) and 672.435)

In Section 672.105(a)(4)

Delete

4) Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, par. 33E-3 and 33E-4). (Section 672.210(a)(10))

Insert

4) Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, par. 33E-3 and 33E-4). (Section 672.210(a)(10))

In Section 672.105(a)(6)

Delete

7 CFR 15, 15a and 15b (Section 672.440).

Insert

Code of Federal Regulations 7 CFR 15, 15a and 15b (Section 672.440).

In Section 672.440

Delete

The Vendor shall not engage in unlawful employment discrimination barred by the Illinois Human Rights Act (Ill. Rev. Stat. 1989, ch. 68, par. 2-102(A)) nor engage in discrimination practices barred by USDA regulations (7 CFR Parts 15, 15a and 15b).

Insert

The Vendor shall not engage in unlawful employment discrimination barred by the Illinois Human Rights Act (Ill. Rev. Stat. 1989, ch. 68, par. 2-102(A)) nor engage in discrimination practices barred by USDA regulations (Code of Federal Regulations 7 CFR Parts 15, 15a and 15b).

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In Section 672.205(a)(4)

Delete 4) identification of any ownership interest of thirty percent (30%) in any other entity applying for WIC Vendor authorization or WIC Vendor;

Insert 4) identification of any ownership interest of thirty percent (30%) or more in any other entity applying for WIC Vendor authorization or WIC Vendor;

In Section 672.205(b)(1)

Delete 1) identity and location of corporation's principal place of business;

Insert 1) identity and location of the corporation's principal place of business;

In Section 672.205(b)(2)

Delete 2) identity and address of registered agent;

Insert 2) identity and address of the corporation's registered agent;

In Section 672.210(a)(5)

Delete Neither the Applicant, Vendor, nor any officers or officials shall have been involved in bribery as prohibited under Section 11.1 of the Illinois Purchasing Act. (Ill. Rev. Stat. 1989, ch. 127, par. 132.11-1.)

Insert Neither the Applicant, Vendor, nor any officers or officials shall have been involved in bribery as prohibited under Section 10.1 of the Illinois Purchasing Act. (Ill. Rev. Stat. 1989, ch. 127, par. 132.11-1.)

In Section 672.210(b)(5)

Delete The Applicant shall be notified by the Department whether or not the inspection of the proposed Vendor Site... initial Retail Vendor training course.

Insert The Applicant shall be notified by the Department, within thirty (30) calendar days, whether or not the inspection of the proposed Vendor Site... initial Retail Vendor training course.

In Section 672.425(u)

Delete The Vendor shall notify the Department, in writing and by

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Certified Mail, when material information included in the Vendor's Application changes.

Insert When material information included in the Vendor's Application changes, the Vendor, by Certified Mail, shall notify the Department in writing, within thirty (30) calendar days.

In Section 672.450, line 6

Delete The Vendor shall not sell, assign, or transfer in any manner the Authorization, the WIC Vendor Contract, the WIC Vendor Stamp, or the WIC Vendor Number. Any actual or attempted sale, assignment or transfer of the above shall be considered a breach of the WIC Vendor Contract. The death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, association, or firm shall cause the Vendor's Authorization and WIC Vendor Contract to be subject to Section 672.515 (h) and 672.520. The Vendor has an affirmative duty to notify the Department, in writing at the place listed in the WIC Vendor Contract, fifteen (15) calendar days in advance of any scheduled sale, lease, bankruptcy or cessation of the Vendor's Business Entity or the sale of any majority interest of any corporation or partnership.

Insert

The Vendor shall not sell, assign, or transfer in any manner the Authorization, the WIC Vendor Contract, the WIC Vendor Stamp, or the WIC Vendor Number. Any actual or attempted sale, assignment or transfer of the above shall be considered a breach of the WIC Vendor Contract. The death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, unincorporated association, or firm shall cause the Vendor's Authorization and WIC Vendor Contract to be subject to Section 672.515 (h) and 672.520. The Vendor has an affirmative duty to notify the Department, in writing at the place listed in the WIC Vendor Contract, fifteen (15) calendar days in advance of any scheduled sale, lease, bankruptcy or cessation of the Vendor's Business Entity or the sale of any majority interest of any corporation or partnership.

In Section 672.505(b)(3)

Delete Requiring a Participant to exchange their selection of WIC Foods.

Insert Requiring a Participant to select a different type or brand of WIC Foods when not specified on the Food Instrument.

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In Section 672.515(a)

Delete the Vendor has not met requirements of the USDA WIC Regulations, the Act, or the provisions of this Part;

Insert the Vendor has not met one (1) or more requirements of the USDA WIC Regulations, the Act, or the provisions of this Part;

In Section 672.610(a)

Delete A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file written notice of appearance setting forth:

Insert A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:

In Section 672.645(o)(2)

Delete 2) that the offending party be barred from filing any other pleading relating to any issue to which the refusal or failure relates;

Insert 2) that the party in violation be barred from filing any other pleading relating to any issue to which the refusal or failure relates;

In Section 672.645(o)(6)

Delete 6) that any portion of his pleadings relating to that issue be stricken, judgment be entered as to that issue.

Insert 6) that any portion of his pleadings relating to that issue be stricken and judgment be entered as to that issue.

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.

13) Will the Rules Replace an Emergency Rule Currently in Effect?

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Yes ___ No X

14) Are there any other Amendments Pending on this Part? Yes ___ No X

If Yes:

Section Numbers

Proposed Action

Ill. Reg. Citation

15) Summary and Purpose of Rules:

The WIC Vendor Management Act, P.A. 86-138, was signed into law on August 3, 1989. These proposed rules are in accordance with the public law and proposed to administer the Act. Each Subpart is briefly described below.

Subpart A, General Provisions, provides definitions for terms used in the Rules; lists incorporated and referenced materials; and describes the purpose and application of these rules.

Subpart B, WIC Vendor Application and Authorization Process, outlines the legal authority for a Grocery Store or Pharmacy to participate in the WIC Program. It also, describes the geographic distribution and number of Vendors; Application procedures; the WIC Food List; criteria for denial of initial Authorization; and denial of Authorization.

Subpart C, WIC Vendor Education, defines the process of training and elements of knowledge the Vendor should obtain through training. Included are initial training courses, initial training provided by Vendors, annual programs and compliance training sessions.

Subpart D, WIC Vendor Authorization and Responsibilities, defines the obligations of the Vendor while under contract with the Department. Contents include the following: Authorization; the WIC Vendor Contract requirement; non-renewal of Vendor Authorization; Food Instrument processing and specifications for rejections; Vendor responsibilities; payment obligation; conflict of interest; unlawful discrimination; amendments; assignment or transfer; civil law suits; Vendor voluntary withdrawal; and notices.

Subpart E, WIC Vendor Compliance and Sanctions, outlines compliance with the WIC Vendor Management Act. It includes cause for monitoring; types of violations; severity of sanctions; criteria for termination of Authorization; termination of Authorization; and notice of violation.

Subpart F, Hearing Procedures, defines the process for appealing any adverse action, by the Department, against a WIC Retail Vendor. Contents include applicability of the rules; parties to hearings; appearance and representation of a party; commencement of an action.

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672.460 Voluntary Withdrawal from the WIC Vendor Contract
672.465 Notices

SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section
672.500 Compliance Monitoring Inspections
672.505 Violations
672.510 WIC Vendor Sanctions
672.515 Criteria for Termination of Authorization and Fine Assessment
672.520 Termination of Authorization and Fine Assessment
672.525 Notice of Violation

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL
VENDOR ADMINISTRATIVE HEARINGS

Section
672.600 Applicability
672.605 Parties to Hearings
672.610 Appearance and Representation of a Party
672.615 Commencement of an Action
672.620 Motions
672.625 Discovery
672.630 Form of Papers
672.635 Service
672.640 Pre-Hearing Conferences
672.645 Conduct of Hearings
672.650 Subpoenas
672.655 Burden of Proof
672.660 Hearing Officer's Report and Final Decision
672.665 Records of Proceedings
672.670 Miscellaneous

Section 672. Appendix A Illinois Regional Map

NOTE: Capitalization denotes statutory language.

AUTHORITY: Implementing and authorized by The WIC Vendor Management Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7551 et seq.)

SOURCE: Adopted at 14 Ill. Reg. 19984 effective, December 1, 1990.

SUBPART A: GENERAL PROVISIONS

Section 672.100 Definitions

"Act" means The WIC Vendor Management Act. (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7551 et seq.).

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"Administrative Warning" means a written notice which describes the nature of a violation to the WIC program and a request for correction of the violation.

"Applicant" means the individual, partnership, limited partnership, unincorporated association, or corporation applying to be a WIC Retail Vendor.

"Application" means the application forms and other required materials submitted by a Business Entity to notify the Department that the Business Entity desires to become a WIC Retail Vendor.

"Authorization" means the approval of an Applicant who has met the WIC Vendor criteria and has accepted a WIC Vendor Contract as a WIC Retail Vendor.

"Business Entity" means the retail business which an Applicant or authorized WIC Vendor operates at a particular Vendor Site.

"Contested Case" shall have the meaning ascribed it in Section 3.02 of the Illinois Administrative Procedure Act. (Ill. Rev. Stat. 1989, ch. 127, par. 1003.02)

"Corporate Officer" means the identity of the officer of a Corporation as set forth in its Articles of Incorporation as filed with the Secretary of State wherein such entity is incorporated.

"Department" means the Illinois Department of Public Health. (Section 3(a) of the Act)

"Department Estimated Cost" means self reported Vendor prices on the Vendor Retail Price Survey, which are averaged and weighted by Store Type and Region from the Vendor Price Survey.

"Department Representative" or "Representative of the Department" means an employee or authorized agent of the Department.

"Director" means the Director of the Illinois Department of Public Health or his designee.

"Food Instrument" or "FI" means a negotiable voucher issued by a Local Agency that specifies the quantity, size and type of authorized foods available to WIC Participant within a designated time period, which can subsequently be taken to a Vendor in exchange for the specified quantities of food.

"Food Voucher" means Food Instrument.

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"Grocery Store" means a fixed and permanent retail store whose primary business is the sale of food.

"Hearing Officer" means the person authorized by the Director or his designee to preside at the formal administrative hearing.

"IAPA" means the Illinois Administrative Procedure Act. (Ill. Rev. Stat. 1989, ch. 127, par. 1001)

"Illinois WIC Retail Food Delivery System" means the system in which Participants obtain WIC Foods by submitting a Food Voucher to a WIC Retail Vendor.

"Invalid Vendor" means a Food Instrument deposited or mailed by a Vendor which has been encoded and rejected by the Department's contract bank for the following reasons: the Food Instrument has not been stamped with the Vendor Number, the Vendor Number is unauthorized, unreadable, not in the space indicated, or a counterfeit Vendor Stamp is used. Typed or handwritten numbers shall not be accepted.

"Local Agency" means a public or private, non-profit health or human services agency which provides health services, either directly or through contract, in accordance with the USDA WIC Regulations, the Act, or this Part.

"Participant" means authorized pregnant women, breastfeeding women, postpartum women, infants or children who are receiving supplemental foods or Food Instruments under the WIC Program.

"Participant Requested Delivery" means a Participant requested delivery of WIC approved foods, from a Vendor, to an address specified by the WIC Participant or Proxy.

"Participant/Vendor Ratio" means the total number of WIC Participants in a given region divided by the total number of WIC Retail Vendors in the same region.

"Pharmacy" means any store, or shop, department, or other place, at a fixed and permanent location, where drugs, medicines or liquid foods, prescribed by a physician licensed to practice medicine in all its branches, for an individual, are dispensed, or sold or offered for sale at retail value.

"Proxy" means a person who is authorized by the Local Agency and the WIC Participant to accept and/or redeem Food Instruments on a Participant's behalf.

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"Retail Vendor Price Survey" means the current prices, reported to the Department, by a Vendor or a Department Representative as charges for WIC Foods.

"Store Type" means the classification of WIC Retail Vendors by the number of active customer check-out lanes/cash registers. One or two lanes is a type 1 Vendor Site. Three or four lanes is a type 2 Vendor Site. Five to seven lanes is a type 3 Vendor Site. Eight or more lanes is a type 4 Vendor Site. A Pharmacy is a type 5 Vendor Site.

"USDA" means the United States Department of Agriculture.

"USDA WIC Regulations" mean the Regulations of the United States Department of Agriculture, Food and Nutrition Service, Special Supplemental Food Program for Women, Infants, and Children. 7 CFR 246 (1990)

"Vendor" or "WIC Retail Vendor" means the individual, partnership, limited partnership, unincorporated association, or corporation authorized by the Department to accept Food Instruments and to provide supplemental food to WIC Participants or Proxies of WIC Participants.

"Vendor Number" means the number assigned to a Vendor by the Department for validating Food Instruments.

"Vendor Site" means a fixed and permanent location, operating as a Business Entity, listed in the WIC Vendor Application, which has been authorized by the Department for purposes of delivery of WIC Foods to WIC Participants or the Proxy of a WIC Participant.

"Vendor Stamp" means the stamp provided to a Vendor by the Department for validating Food Instruments.

"WIC Food List" means the published list of State of Illinois authorized WIC Foods.

"WIC Foods" mean those competitively priced foods which have been placed on the WIC Food List, which have been determined by the Department to be nutritionally qualified for the WIC Program in the State of Illinois.

"WIC Participant Identification Card" means the card issued by a Local Agency to a Participant for purposes of the WIC Program.

"WIC Vendor Contract" means an agreement signed by the WIC Retail Vendor and the Department for the provision of WIC Foods to Participants.

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"WOMEN INFANTS AND CHILDREN NUTRITION PROGRAM" AND "WIC" MEAN THE FEDERAL SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN INFANTS AND CHILDREN authorized by Section 17 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786). (Section 3(a) of the Act.

Section 672.105 Incorporated Materials

- a) The following materials are incorporated or referenced in various Sections of the Part:

- 1) The WIC Vendor Management Act, (P.A. 86-138 effective August 3, 1989)
- 2) USDA WIC Regulations, 7 CFR Part 246 (1990)
- 3) The Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, par. 132.11-1 et seq.) (Sections 672.210(a)(5) and (7) and 672.435)
- 4) Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, par. 33E-3 and 33E-4). (Section 672.210(a)(10))
- 5) Illinois Human Rights Act (Ill. Rev. Stat. 1989, ch. 68, par. 2-102(a)) (Section 672.440)
- 6) Code of Federal Regulations, 7 CFR 15, 15a and 15b (Section 672.440).

- b) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.

- c) All citations to federal regulations in this Part concern the specified regulation in the January 1990 Code of Federal Regulations, unless another date is specified.

- d) Copies of all incorporated materials are available for inspection and duplication (at a fee in accordance with Section 1126.410 of the Department's Freedom of Information Code ((2 Ill. Admin. Code 1126)) by the public at the Department's Central Office, Division of Health Assessment and Screening (535 West Jefferson, Springfield, Illinois 62761).

Section 672.110 Purpose

The purpose of this Part is to provide for the qualifications, approval process, education and compliance review of Vendors who participate in the Illinois WIC Program. This Part further provides for the sanctions of Vendors

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who violate this Part and TO ENABLE THE DEPARTMENT TO CARRY OUT ITS RESPONSIBILITIES FOR FISCAL MANAGEMENT AND ACCOUNTABILITY FOR THE FOOD DELIVERY SYSTEM UNDER ITS JURISDICTION. (Section 2 of the Act)

Section 672.115 Application of These Rules

These procedures apply to all Applicants for participation as Vendors in the WIC Program and all Vendors contracting with the Department. Any Authorization issued prior to the effective date of the Act or this Part, shall remain valid and subject to the Act and this Part.

SUBPART B: WIC VENDOR APPLICATION AND AUTHORIZATION PROCESS

Section 672.200 Geographic Distribution and Number of Vendors

Upon receipt of the Application, the Department shall utilize Participant/Vendor Ratios and shall consider Participant needs within geographical locations to determine if the Applicant meets the Regional Participant/Vendor Ratio to be eligible for selection. The Participant/Vendor Ratio shall be calculated for the geographic regions within the State of Illinois (see Appendix A) to determine the need for WIC Retail Vendors within such regions. Participant/Vendor Ratios for each of the nine (9) regions within Illinois shall be:

- a) Regions one (1) through six (6) shall be greater than 40:1, but less than 120:1.
- b) Regions seven (7), eight (8), and nine (9) shall be greater than 75, but less than 175:1.
- c) If an Applicant applies for WIC Authorization in a region which exceeds the maximum Participant/Vendor Ratio, the Application shall be denied. An exception shall be granted when the Applicant's charges to the Department or shelf price, whichever is lower, for WIC Foods are at least ten percent (10%) below the Department's regional estimated cost, and the Applicant agrees to maintain these charges to the Department at such level during the period of Authorization.

Section 672.205 Application Procedures

The Department shall provide an Application for applying to become a WIC Retail Vendor. Submission of a completed Application shall not constitute Authorization to an Applicant to accept or receive payment for Food Instruments. Any Application submitted improperly or incompletely shall be returned to the Applicant. Any Application not completed and returned to the Department within ninety (90) calendar days from receipt by the Applicant shall not be processed. An Applicant can apply for Authorization to become a WIC Retail Vendor by submitting the following to the Department:

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a) An Application for WIC Vendor Authorization as a sole proprietorship shall include the following:

- 1) identity and addresses of owner;
- 2) owner's Social Security number;
- 3) the Federal Employer Identification Number (FEIN) of the Business Entity;
- 4) identification of any ownership interest of thirty percent (30%) or more in any other entity applying for WIC Vendor authorization or WIC Vendor;
- 5) identification of the Business Entity, the Store Type, location of the Vendor Site and an employee contact for WIC purposes;
- 6) proof of the owner's Social Security number;
- 7) proof of the Business Entity's FEIN; and
- 8) proof of USDA Food Stamp Authorization, if applicable.

b) An Application for WIC Vendor Authorization as a corporation shall include the following:

- 1) identity and location of the corporation's principal place of business;
- 2) identity and address of the corporation's registered agent;
- 3) FEIN of the corporation;
- 4) identification of an ownership interest of thirty percent (30%) or more by the stockholders listed in subsection (b)(3) and such an ownership interest by these stockholders in any other entity applying for WIC Vendor authorization or WIC Vendor;
- 5) identity of the Business Entity, Store Type and location of the proposed Vendor Site and an employee contact for WIC purposes;
- 6) Certificate of Good Standing from the Illinois Secretary of State;
- 7) Certification of Incorporation from the State in which the Applicant is incorporated;
- 8) identification and address of each Corporate Officer;

- 9) proof of corporation's FEIN; and
- 10) proof of USDA Food Stamp Authorization, if applicable.

c) An Application for WIC Vendor Authorization as a partnership or limited partnership shall include the following:

- 1) identity and address of each limited and general partner and the registered agent;
 - 2) ownership percentages of each limited and general partner;
 - 3) Social Security number of each limited and general partner;
 - 4) FEIN of the partnership or limited partnership;
 - 5) information concerning any ownership interest of thirty percent (30%) or more by any limited or general partner listed in Section 672.205 (a)(1);
 - 6) information concerning the Business Entity, Store Type and the location of proposed Vendor Site and an employee contact for WIC purposes;
 - 7) proof of Social Security numbers of each limited and general partner;
 - 8) proof of the partnership or limited partnership FEIN;
 - 9) proof of USDA Food Stamp Authorization, if applicable; and
 - 10) if a limited partnership, it must provide a Certificate of Existence issued by the Illinois Secretary of State.
- d) Each owner, partner, limited partner, or shareholder of five percent (5%) or more of any stock shall also provide a statement concerning any conviction for a misdemeanor involving fraud, theft, or misuse of state or federal funds or any felony.
- e) Each Applicant or authorized representative shall attest to the accuracy of information provided in the Application.
- f) Each Application shall be notarized after signature of the Applicant or authorized representative.
- g) The Applicant shall have an obligation to notify the Department in writing, by Certified Mail, of material changes in information contained on the Application after Authorization and during the term

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of the WIC Vendor Authorization.

- h) Proof of FEIN shall include a copy of a notice of new employer identification number assigned or a copy of the Federal Tax Deposit Coupon.
- i) Proof of a Social Security number shall include a copy of the Applicant's driver's license showing the Social Security number, an identification card issued by the Illinois Secretary of State, or a copy of the Social Security card.
- j) If applicable, proof of USDA Food Stamp Authorization shall include a copy of the federal Food Stamp Program Authorization/Retailer Card.
- k) The Applicant shall provide documents which verify the date of purchase or acquisition of the Business Entity for which the Applicant is seeking WIC Vendor Authorization.
- l) Each Applicant shall attest to compliance with necessary local, municipal, or village licenses at the proposed Vendor Site.

Section 672-210 Authorization Criteria and Procedures

- a) Only WIC Retail Vendors authorized by the Department shall be eligible to accept Food Instruments or otherwise provide supplemental foods to WIC Participants. Any Applicant seeking Authorization to become a WIC Retail Vendor has an obligation to meet the following criteria before Authorization. In addition, any approved Vendor has a continuing obligation to meet the below listed criteria during the period of Authorization:
 - 1) The Vendor Site shall be located within the boundary lines of the State of Illinois.
 - 2) The Vendor Site shall have a fixed and permanent location. This site shall be the address indicated on the WIC Vendor Application and shall be the location where a WIC Participant or Proxy shall select WIC Foods during business hours.
 - A) This site shall not be at an address or within any building where Food Instruments are distributed to WIC Participants.
 - B) The price charged to the WIC Program for WIC Foods provided through Participant Requested Delivery shall not exceed those prices charged to cash paying customers nor the prices posted at the Vendor Site. The Vendor shall not charge for delivery of WIC Foods.

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- 3) Each Vendor Site listed in the Application shall have seventy percent (70%) or more gross receipts from the sale of non-alcoholic products.
- 4) Authorization to participate in the USDA Food Stamp Program or any other federal food program is not a prerequisite for Authorization as a WIC Retail Vendor. If, however, an Applicant or Vendor has been authorized to participate in the USDA Food Stamp program or other federal food program, he shall not have been denied, suspended, disqualified, terminated, or assessed a civil money penalty during the two (2) years preceding Application for Authorization as a WIC Retail Vendor.
- 5) Neither the Applicant, Vendor, nor any officers or officials shall have been involved in bribery as prohibited under Section 10.1 of the Illinois Purchasing Act. (Ill. Rev. Stat. 1989, ch. 127, par. 132.11-1.)
- 6) The Applicant or approved Vendor shall be barred from receiving state contracts as a result of any default on any educational loans as that term is defined in AN ACT in relation to educational loans, amending an Act named therein. (Ill. Rev. Stat. 1989, ch. 127, par. 3551 et seq.)
- 7) Neither the Applicant, Vendor, nor his or her spouse or minor children, shall hold an elective office in the State of Illinois, a seat in the General Assembly, appointment or employment in any of the offices of State government during the period of any WIC Vendor Authorization as prohibited under Section 11.1 of The Illinois Purchasing Act.
- 8) Neither the Applicant, Vendor, its officers, directors, individual partners, nor their spouses or minor children who owns more than seven and one-half percent (7 1/2%) ownership or beneficial interest in the Business Entity seeking Authorization to participate in the WIC Program shall be employed by the WIC Program of a Local Agency.
- 9) Neither the Applicant, nor the Vendor shall have been convicted of a misdemeanor involving fraud, misuse or theft of State or Federal funds or of any felony. A certified copy of conviction may be offered and admitted into evidence as proof of such conviction.
- 10) The Applicant or Vendor shall be barred from bidding on or entering into a WIC Vendor Contract as a result of a violation of Sections 33E-3 or 33E-4 of the Criminal Code of 1961.

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Neither the Applicant, Vendor, nor any owner of thirty percent (30%) or more ownership shall have been terminated from the WIC program in the previous three (3) years.

The Applicant or Vendor shall adhere to the provisions of the USDA WIC Regulations, the Act, and this Part.

Applicants shall be authorized as WIC Retail Vendors based upon the following:

1) An Application and all supporting documents shall be properly completed and verified by the Department. No Application shall be deemed complete unless it includes all necessary supporting documents required by this Part.

2) The Applicant's proposed Vendor Site shall be initially inspected by the Department.

A) The Department shall conduct an initial inspection of the proposed Vendor Site after receipt of a completed Application. Such inspection shall determine whether the Applicant has the minimum quantities, sizes, and types of WIC Foods and shall verify any business or financial information submitted by the Applicant.

B) If the inspection discloses that the Applicant's proposed Vendor Site does not have the minimum quantities, sizes, or types of WIC Foods necessary or that business or financial information supplied by the Applicant is erroneous, inaccurate, or insufficient, the Department shall advise the Applicant of the deficiencies and conduct another inspection of the Vendor Site.

C) If the second inspection by the Department discloses that the Applicant's proposed Vendor Site does not meet the minimum quantities, sizes, and types of WIC Foods or if business or financial information supplied by the Applicant remains erroneous, inaccurate or insufficient, the Application shall be denied.

3) The minimum quantities, sizes, and types of WIC Foods necessary at a Vendor Site are those specified in the WIC Vendor Contract. A copy of this list shall be provided to each Applicant and approved Vendor.

4) The Department shall complete a Retail Vendor Price Survey of WIC Foods during the initial inspection by collecting the lowest posted shelf prices for WIC Foods. If the Applicant's prices

are five percent (5%) above the average prices in the same region for WIC Foods, the Application shall be denied, unless the Participant/Vendor Ratio is less than that specified in Section 672.200 (a) and (b) or the Applicant is a Pharmacy or drug store which only redeems Food Instruments for infant packages.

5) The Applicant shall be notified by the Department, within thirty (30) calendar days, whether or not the inspection of the proposed Vendor Site, the business, the financial, or other information provided by the Applicant meets the criteria set forth in this Part. If the Applicant meets such criteria, he shall be notified of approval to attend the initial Retail Vendor training course.

Section 672.215 WIC Food List and Quantities

a) Foods which qualify for delivery to WIC Participants shall be determined by the Department in accordance with 7 CFR 246.10 and placed upon a list which shall be made public. This list shall be printed and distributed at least once each year with the effective date of implementation printed on the face of the list. Changes made to the WIC Food List by the Department including addition and deletion of eligible foods, shall be distributed to all Local Agencies, eligible Participants and WIC Vendors prior to implementation. If a Vendor intends to utilize a WIC Food List which differs in form from the WIC Food List distributed by the Department, such use shall require prior approval of the Department. To obtain such approval, the Vendor shall submit a request for such use in writing to the Department and shall include a copy of the food list it intends to use. The Department shall review the food list submitted and inform the Vendor whether it shall approve or disapprove of the use of such list based upon the current Department list and 7 CFR 246.10. Disapproval of such a request shall not give rise to any right of administrative appeal.

b) Minimum required quantities as specified in the WIC Vendor Contract are as follows:

1) All Vendors in ZIP code prefix 606 of the City of Chicago shall maintain sufficient quantities to provide food for three (3) infants, three (3) children, and three (3) women.

2) All Vendors outside of the City of Chicago (not within ZIP code area prefix 606 of Chicago) shall maintain sufficient quantities to provide food for two (2) infants, two (2) children, and two (2) women.

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Section 672.220 Criteria for Denial of Initial Authorization

A determination by the Director or his designee to deny initial Authorization shall be based upon a finding that one (1) or more of the following criteria are met:

- a) The Applicant has not met the requirements of the USDA WIC Regulations, the Act, or this Part.
- b) The Applicant has submitted false, erroneous, or inaccurate information on the Application, or in the business or financial information provided to the Department or during the course of the initial on site inspection of the proposed Vendor Site.
- c) The Applicant has refused to allow the Department access to inspect the proposed Vendor Site during the Applicant's normal business hours.
- d) The Applicant has submitted a FEIN or Social Security number for the Business Entity to be operated at the proposed Vendor Site which is not the same FEIN or Social Security number filed for the same Business Entity with the USDA Food Stamp Program and/or with the Illinois Department of Revenue.
- e) The Applicant does not have the necessary local, municipal, or village license to operate as a Business Entity at the proposed Vendor Site.
- f) With the exception of Pharmacies, the Applicant has previously been authorized as a WIC Vendor and the Applicant's charges as a Vendor for WIC Foods, for a minimum of three (3) months during the contract period, were:
 - 1) more than the Department Estimated Costs for those WIC Foods as reflected in the Vendor Price Survey; or
 - 2) at least five percent (5%) or greater than the average charges submitted by other Vendors of the same Store Type in the same geographic region.
- g) The Applicant has previously been authorized as a WIC Vendor and the Applicant had more than one percent (1%), of all Food Instruments submitted to the contract bank, rejected per month for a maximum of 3 months during a contract period.

Section 672.225 Denial of Authorization

- a) Application for Authorization as a WIC Retail Vendor shall be denied when the Director or his designee finds that an Applicant meets any

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of the criteria set forth in Section 672.220.

- b) When the Director or his designee determines that the Application for Authorization as a WIC Retail Vendor is to be denied, the Department shall notify the Applicant. The notice to the Applicant shall be in writing and shall include:
 - 1) A clear and concise statement of the basis for denial. The statement shall include a citation to the USDA WIC Regulations, the Act, or the provisions of this Part for which the Application is being denied.
 - 2) A description of the right of the Applicant to appeal the denial of the Application within fifteen (15) calendar days of receipt of the letter and the right to a hearing.

SUBPART C: WIC VENDOR EDUCATION

Section 672.300 Initial WIC Retail Training by the Department

- a) An initial WIC Retail training course shall be provided to Vendor Applicants who have met the criteria in Subpart B. All Vendor Sites shall send a representative listed on the application to such training course except as provided for in Section 672.305.
- b) The initial WIC Retail training course shall include, but shall not be limited to the following: the purpose of the WIC Program; certification of WIC Participants; responsibilities of the WIC Retail Vendor; minimum quantities, sizes and types of authorized WIC Foods; Food Instrument processing and transactions; USDA WIC Regulations, the Act and the provisions of this Part; monitoring and compliance visits; WIC fraud and abuse provisions; potential sanctions to Vendors; collection of overcharges; the Vendor's responsibility for maintenance of purchasing records; procedures for WIC Participant Vendor or public complaints; the WIC Vendor Contract; and completion of the Retail Vendor Price Survey.
- c) All Applicants or their representatives at the initial retail training course shall sign a roster indicating their attendance.
- d) At the end of the initial retail training course, each Applicant or the Applicant's representative shall sign a certification of understanding of the WIC Program.

Section 672.305 Initial WIC Retail Training by a Vendor

- a) A Vendor who meets the following criteria shall have the option of providing the initial WIC retail training to each Vendor Site only

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with written prior approval of the Department. The Vendor shall meet the following criteria:

- 1) the Vendor shall submit a written request to provide the training course and all materials which shall be used in the course which shall include the subjects specified in Section 672.300 (b);
- 2) all WIC-Retail Vendor outlets shall operate under one FEIN;
- 3) the Vendor shall have a minimum of twenty (20) Illinois WIC Retail Vendor Sites;
- 4) Department representatives shall be allowed to observe the training; and
- 5) a certification of understanding of the WIC Program shall be completed and signed by the Vendor or his representative.

- b) If the criteria in subsection (a) are met, the Department shall send a written notification permitting the Vendor to provide the initial WIC Retail Vendor training. This permission shall be valid for the period covered by the WIC Vendor Authorization.

Section 672.310 Annual WIC Retail Training Program

- a) Unless a Vendor has attended an initial WIC Retail Vendor training meeting, during the contract period, a representative from each Vendor Site shall be notified and shall participate in an annual Department sponsored training program. This person shall not represent more than one (1) WIC Retail Vendor Site at any annual training course.
- b) Each training program shall include, but not be limited to the following topics: any changes to the USDA WIC Regulations, the Act, or the provisions of this Part, and issues relating to the WIC Vendor Contract.
- c) A representative from each Vendor Site shall sign a certificate of participation in the training program.

Section 672.315 Compliance Training Workshop

- a) Any WIC Retail Vendor who has been found to have committed a Class A, Class B or Class C Violation, as defined in Section 672.505, shall be required to attend a compliance training workshop as required in Section 672.510. Any Vendor required to attend shall not represent more than one (1) WIC Retail Vendor Site at any compliance workshop.

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Attendance at the compliance training workshop shall not be required if the Vendor is terminated from Authorization.

- b) The Vendor shall be notified in writing of the workshop date by the Department.
- c) Workshop topics shall include, but not be limited to the following: the WIC Vendor Contract, the USDA WIC Regulations, the Act, and the provisions of this Part.
- d) All Vendors or representatives of the Vendor at a compliance workshop shall sign a roster indicating their attendance.
- e) At the end of the compliance workshop, each Vendor or representative of the Vendor shall sign a certification of understanding of the topics addressed during the compliance workshop.

SUBPART D: WIC VENDOR AUTHORIZATION AND RESPONSIBILITIES

Section 672.400 Authorization

Upon successful completion of the process for Application or re-authorization, each Applicant or WIC Vendor who meets the criteria set forth in this Part shall be notified that they are approved for Authorization pending completion of a WIC Vendor Contract.

Section 672.405 WIC Vendor Contract Requirement

All Authorizations to act as WIC Retail Vendors require a properly executed, written WIC Vendor Contract between the Department and the Vendor. In the retail purchase system, a standard WIC Vendor Contract shall be used statewide and shall expire annually. Exceptions to this requirement shall be made with the approval of the Director consistent with USDA WIC Regulations (7 CFR 246.12 (f) (1)).

Section 672.410 Expiration of WIC Vendor Authorization and Contract

The Department is under no obligation to re-authorize a WIC Vendor at the time of expiration of the WIC Vendor Contract.

Section 672.415 Food Instrument Processing

The Vendor shall submit Food Instruments for payment for the provision of WIC supplemental foods in the following manner:

- a) The Vendor shall ask the WIC Participant for the WIC Participant Identification Card and verify that the Participant name on the Food Instrument is the same as on the WIC Participant Identification

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Card. If the Participant sends a Proxy to obtain the foods, the Proxy's signature shall be on the WIC Participant Identification Card, but shall not be on the Food Instrument. The Vendor shall be allowed to request from the Proxy or Participant an additional form of identification with the Proxy's or Participant's name on it. If the Proxy or Participant does not have another form of identification, the Vendor shall have grounds to refuse the Proxy's or Participant's request to obtain the foods.

- b) The Vendor shall not accept a Food Instrument that is signed before the Vendor fills in the actual amount of sale.
- c) The Food Instrument shall be accepted only within the time limits specified on the Food Instrument.
- d) The Vendor shall ensure that the food items that the Participant or Proxy chooses to obtain, from the food items listed on the Food Instrument, are authorized WIC Foods and are the food items stated on the Food Instrument.
- e) The Vendor shall write the actual total shelf price or less on the Food Instrument. The Food Instrument shall be signed by the WIC Participant or the approved Proxy. Both of these actions shall take place at the Vendor Site unless the transaction is a Participant Requested Delivery. The Vendor shall not obtain the Participant/Proxy signature, until after the actual amount of sale is put on the Food Instrument.
- f) The Vendor shall verify the signature on the WIC Participant Identification Card against the signature on the Food Instrument as either the name of a Participant or a Proxy.
- g) The Vendor shall stamp the assigned four (4) digit Vendor Number on the Food Instrument in the space indicated. Upon notification by the Department, Vendors shall be given the option to batch the Food Instruments, stamp a deposit slip with the assigned four (4) digit Vendor Number and send the Food Instruments to the Department's Contract bank's lock box. For presentation of Food Instruments, the contract bank deposit slip shall be completed, in lieu of stamping the four (4) digit Vendor Number on each Food Instrument.
- h) The Vendor shall deposit the Food Instrument in a local financial institution or the Department's contract bank within sixty (60) days from the "First Day To Use" printed on the Food Instrument.
- i) Any Food Instrument improperly completed by the Vendor shall be rejected.

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Section 672.420 Specifications for Rejection of Food Instruments

a) Food Instruments shall be rejected for payment for the following reasons:

- 1) Submission of a Food Instrument before the "First Day To Use".
- 2) Submission of a Food Instrument for payment more than sixty (60) calendar days past the "First Day To Use".
- 3) Submission of a Food Instrument identified by the Department or the Department's contract bank as Invalid Vendor.
- 4) Submission of a Food Instrument by an unauthorized Vendor, or submission of a Food Instrument which has an unauthorized, inaccurate, or missing Vendor Number.
- 5) Submission of a Food Instrument without a Participant or Proxy signature.
- 6) Submission of a Food Instrument whose value is greater than the maximum value amount printed on the Food Instrument.
- 7) Submission of a Food Instrument which has been altered.
- b) Food Instruments presented to the Department's contract bank without the Participant signature, with a missing, inaccurate, or Invalid Vendor Number, or submitted for payment before the "First Day To Use," altered Food Instruments; or Food Instruments which have not been obligated by the local agency (stolen stock) shall not be paid. Appeal procedures for Food Instruments rejected as "Invalid Vendor" are stated below.
 - 1) A notarized letter of request for payment shall be sent to the Department with copies of the rejected Food Instruments. This letter shall state that the actual dollar value, on each Food Instrument which the Vendor intends to re-submit, does not exceed the original actual amount of sale which was indicated on the Food Instrument at the first presentation to the contract bank. This request shall be post marked within fifteen (15) days from the first presentation of the Food Instruments at the Department's contract bank. The Vendor shall pay the Department a non-refundable processing fee of fifteen dollars (\$15) per occurrence, submission of Food Instrument(s) on a specific date and three dollars (\$3), for each rejected Food Instrument re-submitted. The cashier's check or money order shall be made payable to the Department of Public Health WIC Program and shall accompany the notarized letter and the copy of the Food

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Instruments which the Vendor is requesting clearance to re-submit. The Department shall review the request and the Food Instruments for the actual amount of sale and the date of presentation at the contract bank. If the Food Instruments pass review, the Department shall send a certified letter of clearance to the Vendor, which shall provide seven (7) calendar days in which the contract bank is authorized by the Department to accept the Food Instruments for re-submission.

- 2) Upon notification by the Department, Vendors shall have the option to mail Food Instruments directly to the Department's contract bank utilizing a deposit slip and the contract bank lock box. Vendors utilizing this method shall not be required to put the Vendor Stamp on each Food Instrument. For presentation of Food Instruments, only the contract bank deposit slip shall be completed. The Vendor using this method shall be subject to and responsible for any service charges of the contract bank. Any Vendor that has a current account with the Department's contract bank and uses the deposit slip method and lock box, for submission of Food Instruments, shall also only be subject to the service charge of the contract bank. With either method, a notarized letter of request and copies of the Food Instruments rejected for Invalid Vendor shall be sent to the Department as described in subsection (b)(1). The Vendor shall only be subject to the contract bank service charges.

- c) Excessive rejection of Food Instruments shall be grounds for denial of authorization of the Vendor's Contract as cited in Section 672.220(g).

Section 672.425 WIC Retail Vendor Responsibilities

- a) The Vendor shall monitor the WIC Foods approved by the USDA and shall furnish only the prescribed quantities, types and brands of food specified on the Food Instrument. Pharmacies or drug stores shall be exempt from the minimum stock requirement. However, these establishments must have the ability to supply special formula in the necessary quantities upon request within twenty four (24) hours.
- b) The Vendor shall accept Food Instruments only within the time limits indicated on the Food Instruments and shall not receive payment for Food Instruments submitted before the "First Day to Use" or after the "Last Day to Use".
- c) The Vendor shall be responsible for payment and replacement of a lost, stolen or destroyed Vendor Number Stamp.
- d) The Vendor shall display the price of WIC Foods, charged to the

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general public, in clear view of customers, identifying the price of the specific WIC Food item.

- e) The Vendor shall provide WIC Foods to Participants or Proxies at the same price or less than the price charged to non-WIC customers.
- f) The Vendor shall accept Food Instruments only from WIC Participants, Proxies or Representatives of the Department who present a WIC Participant Identification Card.
- g) The Vendor shall not issue a WIC Participant any document (e.g., rain check) purporting to give the WIC Participant the right to buy a WIC Food item or non-WIC Food item after the Food Instrument is signed by the Participant or Proxy. The Vendor shall not exchange any WIC Food item under any circumstances.
- h) The Vendor shall charge the Department sale prices. The value of coupons and discounts shall be deducted from the price charged to the Department. The Participant shall not be given cash for the difference.
- i) The Vendor shall participate in an annual WIC training program as specified in Section 672.310.
- j) The Vendor shall be responsible for all Food Instruments accepted and processed for payment by current and former employees at the Vendor Site. The Vendor shall also be responsible for the accuracy of any information submitted to the Department by such employees. The Vendor shall be responsible for reviewing Food Instruments which have been accepted to make certain that the total cost does not exceed the posted shelf prices or the prices charged to non-WIC customers.
- k) The Vendor shall abide by the USDA WIC Regulations, the Act, and this Part.
- l) The Vendor and his Business Entity shall be subject to audit by the Department or USDA for the time period covering any present or previous Authorization. The Vendor shall maintain all records of purchases, gross sales receipts, and invoices of all WIC and non-WIC Foods for a period not less than three (3) years. The original of such records shall be made available to the Department or USDA upon reasonable request. The Vendor shall also provide the Department and USDA the opportunity to inspect all Food Instruments located at the Vendor Site or under the control of the Vendor.
- m) The Vendor shall respond truthfully and accurately to Department initiated requests for Retail Vendor Price Surveys, verification of ownership of the Business Entity or Vendor Site, proof of WIC and

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non-WIC purchases and sales, and proof of the volume of alcoholic beverage sales. Such responses shall be in writing and be provided within fifteen (15) calendar days of receipt of the Department's request.

n) The Vendor shall maintain all refrigerated areas at a temperature of forty degrees Fahrenheit (40°F) or below, and no WIC Foods shall exceed the expiration date printed on the food item.

o) The Vendor shall not exchange Food Instruments for any form of currency, or other items of value, nor provide the Participant with any amount of currency or coin as change from a partial WIC Food transaction.

p) The Vendor shall not seek restitution from WIC Participants for Food Instruments not paid by the Department or fines levied by the Department, a financial institution or the Department's contract bank. The Vendor shall not seek or receive restitution from the Department for monetary penalties for rejected Food Instruments.

q) The Vendor shall not charge sales taxes for WIC Foods, as the Department is exempt from such tax under tax number E9984-1002-01.

r) The Vendor shall reimburse the Department for any Food Instruments redeemed in violation of the USDA WIC Regulations the Act, this Part or the WIC Vendor Contract.

s) Neither Authorization as a WIC Vendor nor the WIC Vendor Contract constitutes employment between the Vendor and the Department as a State employee or provides eligibility for any employee benefits provided by the State of Illinois.

t) The Vendor shall offer the same courtesies to WIC Participants as offered to other customers.

u) When material information included in the Vendor's Application changes, the Vendor, by Certified Mail, shall notify the Department in writing, within thirty (30) calendar days.

v) The Vendor shall not deny a Participant any WIC Foods indicated on the Food Instrument which the Vendor has in stock.

w) Neither the Vendor, nor his employee, shall require that a Participant exchange their selection of WIC Foods because the WIC Foods selected exceed the maximum value of the Food Instrument. Nor shall the Vendor request or accept any remuneration for the difference between the Participant selected WIC Foods and the maximum value of the Food Instrument.

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x) The Vendor shall allow WIC Participants freedom to select any WIC Foods in stock at the Vendor Site.

Section 672.430 Payment Obligation

Obligations of the Department shall cease immediately without penalty of further payment if the Illinois General Assembly or any federal funding source fails to appropriate or otherwise make available sufficient funds for this process.

Section 672.435 Conflict of Interest

The Vendor shall comply with the conflict of interest provisions of the Illinois Purchasing Act. (Ill. Rev. Stat. 1989, ch. 127, pars. 132.11-1 - 132.11-5)

Section 672.440 Unlawful Discrimination

The Vendor shall not engage in unlawful employment discrimination barred by the Illinois Human Rights Act (Ill. Rev. Stat. 1989, ch. 68, par. 2-102(A)) nor engage in discrimination practices barred by USDA Regulations (Code of Federal Regulations 7 CFR Parts 15, 15a and 15b).

Section 672.445 Amendments Resulting From a Change in Statute or Regulation
The Department shall amend the WIC Vendor Contract, in writing, to include or incorporate additional provisions which shall be required as a result of a change in Federal or State statute or regulation or which shall be required by the Department for the administration, operation, or evaluation of the WIC Program. The Vendor shall receive thirty (30) calendar days notice of the effective date of such amendments.

Section 672.450 Assignment or Transfer

The Vendor shall not sell, assign, or transfer in any manner the Authorization, the WIC Vendor Contract, the WIC Vendor Stamp, or the WIC Vendor Number. Any actual or attempted sale, assignment or transfer of the above shall be considered a breach of the WIC Vendor Contract. The death of a Vendor (if an individual) or the voluntary or involuntary dissolution of a Vendor corporation, partnership, limited partnership, unincorporated association, or firm shall cause the Vendor's Authorization and WIC Vendor Contract to be subject to Section 672.515 (h) and 672.520. The Vendor has an affirmative duty to notify the Department, in writing at the place listed in the WIC Vendor Contract, fifteen (15) calendar days in advance of any scheduled sale, lease, bankruptcy or cessation of the Vendor's Business Entity or the sale of any majority interest of any corporation or partnership.

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Section 672.455 Civil Law Suits

The Vendor shall hold the Department harmless for any liability for any compensation, award, or damages in connection with the Vendor's performance as a WIC Retail Vendor for any injury which might occur to any of the Vendor's employees, WIC Participants or others as the result of any act, omission, or negligence of the WIC Vendor.

Section 672.460 Voluntary Withdrawal from the WIC Vendor Contract

A Vendor may voluntarily withdraw from participation in the WIC Retail Vendor program with approval of the Department. A request for such withdrawal shall be made in writing by the Vendor and sent to the Department at least fifteen (15) calendar days in advance of the desired date of withdrawal. If at the time of the requested withdrawal, the Vendor owes a fine assessment or any other monies resulting from a violation of this Part, such penalty and other monies due shall be paid in full prior to withdrawal from the WIC Retail Vendor program. Any voluntary withdrawal shall be for a period of not less than two (2) years.

Section 672.465 Notices

The Vendor shall send all notices to the Department by Certified Mail at the address listed in the WIC Vendor Contract.

SUBPART E: WIC VENDOR COMPLIANCE AND SANCTIONS

Section 672.500 Compliance Monitoring Inspections

THE DEPARTMENT SHALL DEVELOP A SYSTEM FOR MONITORING THE OPERATIONS OF ALL WIC RETAIL FOOD VENDORS TO ENSURE COMPLIANCE WITH FEDERAL AND STATE LAWS AND RULES GOVERNING THE WIC PROGRAM. THE DEPARTMENT SHALL INVESTIGATE ALL ALLEGED VIOLATIONS OF THE FEDERAL AND STATE LAWS AND RULES PROMULGATED THEREUNDER. (Section 6 (a) and (b) of the Act)

Section 672.505 Violations

Violations shall be classified as either Class A Violations, Class B Violations, or Class C Violations. Each Class of violation is listed below.

a) Class A Violations:

- 1) Disqualification or suspension from participation in the USDA Food Stamp Program, or imposition of a civil money penalty by the Food Stamp Program.
- 2) Exchanging cash or credit for Food Instruments.

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- 3) Exchanging non-food items or alcoholic beverages for Food Instruments.

- 4) Receiving, transacting or redeeming WIC Food Instruments from any source other than a Participant, a Proxy or a Representative of the Department.

- 5) Charging WIC Participants, Proxies or Department Representatives more for WIC Food than non-WIC customers or charging more than the posted shelf price.

- 6) Charging the WIC program for WIC Foods not received by the Participant, Proxy or Department Representatives or for foods provided in excess of those listed on the Food Instruments.

- 7) Claiming reimbursement for the sale of any amount of WIC Food item which exceeds the store's documented inventory of that food item for a specified period of time.

b) Class B Violations:

- 1) Substitution of unauthorized foods not specified on the Food Instruments or WIC Food List.

- 2) Failure to maintain the minimum stock requirements as specified in the WIC Vendor Contract and/or having any expired WIC approved foods on the shelf.

- 3) Requiring a Participant to select a different type or brand of WIC Foods when not specified on the Food Instrument.

- 4) Altering or submitting for payment altered Food Instruments.

- 5) Failure to post current shelf prices for WIC Foods.

- 6) Accepting any remuneration for the difference between the maximum value of the Food Instrument and the shelf price of the WIC Foods.

c) Class C Violations:

- 1) Failure to submit Retail Vendor Price Surveys requested by the Department.

- 2) Failure to submit information requested by the Department within the time period specified by the Department.

- 3) Acceptance of a Food Instrument that is signed by the

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Participant, Proxy, or Department Representative before the total actual cost is filled in by the Vendor.

- 4) Failure to attend an annual Retail Vendor training program.

Section 672.510 WIC Vendor Sanctions

Any Class A or B Violation shall subject the Vendor to reimburse the Department for any overcharges, charges for items not received by WIC Participants, and monies paid for products not authorized as WIC Foods.

- a) Any Class A Violation shall constitute grounds for termination of Authorization pursuant to Section 672.515 and Section 672.520. The length of such termination shall constitute, at a minimum, termination from the WIC program for a period of one (1) year. Each such Class A Violation shall also subject a Vendor to a fine assessment of two thousand five hundred dollars (\$2,500) and attendance at a compliance training workshop except for the violations cited in Section 672.505 (a) (1).

- b) Any Class B Violation shall constitute grounds for the following sanctions:

- 1) For the first Class B Violation, the WIC Retail Vendor shall be given written notice of the violation and shall be given an Administrative Warning.

- 2) For the second Class B Violation committed within twenty four (24) months of the first Class B Violation, the Vendor shall be subject to a fine assessment of one thousand dollars (\$1,000). The Vendor shall also be required to attend a compliance training workshop as specified in Section 672.315.

- 3) The third Class B Violation committed within twenty four (24) months of the first Class B Violation shall be grounds for termination of the Vendor Authorization pursuant to Section 672.520 and a fine assessment of two thousand five hundred dollars (\$2,500).

- c) Any Class C Violation shall constitute issuance of an Administrative Warning.

- d) The time period of twenty four (24) months referenced in subsections (b)(2) and (b)(3) shall commence from the time the notice of violation, termination or fine assessment is issued by the Department.

- e) All fine assessments shall be paid by cashier certified check or money order in United States currency.

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Section 672.515 Criteria for Termination of Authorization and Fine Assessment

A determination by the Director or his designee to terminate Authorization and impose a fine assessment shall be based upon a finding that one (1) or more of the following criteria are met:

- a) the Vendor has not met one (1) or more requirements of the USDA WIC Regulations, the Act, or the provisions of this Part;
- b) the Vendor has submitted false, erroneous, or inaccurate information on the Application, in the business or financial information provided to the Department, on the Retail Vendor Price Survey, or during the course of inspections of the Vendor Site;
- c) the Vendor has refused to allow the Department access to inspect the Vendor Site during normal business hours;
- d) the Vendor has been found by the Department to have violated provisions of Section 672.505 (a) or (b);
- e) the Vendor has submitted a Federal Employers Identification Number (FEIN) for the Business Entity operating as a Vendor which differs from the FEIN filed for the same Business Entity with the USDA Food Stamp Program or with the Illinois Department of Revenue;
- f) the Vendor has not fulfilled the terms of the WIC Vendor Contract;
- g) the Vendor has sold, leased, or discontinued the Business Entity or moved the Business Entity to a new location or new address; or
- h) the Vendor corporation, partnership, or limited partnership has been voluntarily or involuntarily dissolved or that the Vendor sole proprietor has died.

Section 672.520 Termination of Authorization and Fine Assessment

- a) The termination of Authorization as a WIC Retail Vendor and imposition of a fine assessment shall occur when the Director or his designee finds that the Vendor meets any of the criteria set forth in Section 672.515.

- b) When the Director or his designee determines that the termination of a WIC Vendor's Authorization and imposition of fine assessment is to occur, the Department shall notify the Vendor. The notice shall be in writing and shall include:

- 1) A statement of the nature of the basis for the adverse actions.

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The statement shall include a citation to the provisions of the USDA WIC Regulations, the Act, or this Part on which the termination is based.

- 2) A description of the right of the Vendor to appeal the adverse action and the right to a hearing.

Section 672.525 Notice of Violation

Each notice of violation shall be in writing and shall contain the following information:

- a) a description of the nature of the violation;
- b) a citation of the specific provision of the USDA WIC Regulations, the Act or this Part which the Department believes has been violated;
- c) a statement of the level of violation as determined pursuant to Section 672.505;
- d) a statement that the Department may take additional action under the Act or this Part, including termination of WIC Vendor Authorization and the WIC Vendor Contract and an assessment of penalties;
- e) a description of the Vendor's right to appeal the notice within fifteen (15) calendar days of receipt of the notice and the right to request a hearing; and
- f) the effective date for any proposed adverse action against a Vendor under Sections 672.225, 672.510 or 672.520.

SUBPART F: RULES OF PRACTICE AND PROCEDURES IN ILLINOIS WIC RETAIL VENDOR ADMINISTRATIVE HEARINGS

Section 672.600 Applicability

- a) This Subpart shall govern all formal administrative hearings for the Department relating to the denial or termination of Authorization as a WIC Retail Vendor in Illinois, any penalty assessments, and the requirement to attend a compliance training workshop as a result of violations of the USDA WIC Regulations, the Act, or this Part.
- b) Article II of the Code of Civil Procedure (Ill. Rev. Stat. 1989, ch. 110, par. 2-101 et seq.) and Article II of the Illinois Supreme Court Rules (Ill. Rev. Stat. 1989, ch. 110A, par. 101 et seq.) are incorporated into this Subpart for use in all formal administrative hearings under this Part. In case of conflict between Article II of the Code of Civil Procedure or Article II of the Illinois Supreme

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Court Rules, the provisions of this Subpart shall control.

- c) These rules do not govern the various informal administrative procedures which the Department may pursue prior to issuing a notice of violation.

Section 672.605 Parties to Hearings

The Department and the Applicants or Vendors shall be the only parties to administrative hearings before the Department.

Section 672.610 Appearance and Representation of a Party

- a) A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file a written notice of appearance setting forth:
 - 1) the name, address and telephone number of the attorney;
 - 2) the name and address of the party represented; and
 - 3) an affirmative statement indicating that the attorney is licensed to practice law in Illinois.
- b) An attorney, licensed to practice law, may withdraw from employment as a representative only upon written notice to the Department stating the reasons for withdrawal and consistent with the Code of Civil Procedure. (Ill. Rev. Stat. 1989, ch. 110, par. 1-101.) Such withdrawal shall require an appropriate ruling by the Hearing Officer.
- c) A sole proprietor who is authorized as a WIC Retail Vendor may appear and be heard on his own behalf.
- d) A corporation or association which is authorized as a WIC Retail Vendor shall appear and be heard only by an attorney licensed to practice in the State of Illinois.
- e) A partnership or limited partnership authorized as a WIC Retail Vendor may appear and be heard by any partner, upon presentation to the Department of written authorization from all partners authorizing him to act in a representative capacity.
- f) Special appearances are not recognized. The initial appearance regardless of form is deemed a general appearance.
- g) Each party to a proceeding who appears before the Department either in person or by counsel, shall inform the Department in writing or upon the record of the address at which any notice or other document

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may be served upon him or her in such proceeding. All further service may be made by regular mail unless otherwise required by statute or rule. Service shall be presumed unless disputed in the record.

- h) Attorneys appearing before the Department shall conform their conduct to the Illinois Code of Professional Responsibility, effective December, 1989, and as amended. Any failure to behave in a manner which permits the efficient functioning of the hearing will authorize the Hearing Officer to take the following actions:

- 1) limitation of evidence;
- 2) substitution of written argument in place of oral argument; or
- 3) exclusion of an attorney from the proceeding.

Section 672.615 Commencement of an Action

Administrative actions under these rules shall be commenced by the Director signing and issuing a notice of violation, termination, or penalty assessment or as a result of a request for a hearing by an Applicant resulting from denial of Authorization. The effective date of any notice of violation, termination, or penalty assessment or any denial of authorization shall be not less than 15 days from the date of receipt of such notification.

- a) For notice in all actions under this Part, the Department shall serve on all parties to a Contested Case a notice of an opportunity for an administrative hearing. The notice shall be signed by the Director.

- 1) The notice of an opportunity for an administrative hearing shall contain:

- A) a statement of the nature of the hearing;
- B) a statement of the date and place at which a request for a hearing from the person given the opportunity for a hearing is to be received by the Department, and the date set for receipt of the request for a hearing shall be at least fifteen (15) calendar days from the date the notice is mailed or personally served;
- C) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- D) a reference to the applicable sections of USDA WIC Regulations, the Act, or this Part; and

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- E) unless accompanied by a notice of violation, a short, plain statement of the matters asserted.

- 2) An administrative hearing must be requested within ten (10) calendar days of receipt.

- 3) An Applicant or a WIC Retail Vendor who receives a notice of an opportunity for an administrative hearing must submit a written request for the hearing to the Department. The request is to be sent to the Department at the address stated in the notice and must be postmarked by the date set forth in the notice. Failure to comply with this rule shall constitute a waiver of the person's right to an administrative hearing.

- b) Upon receipt of a request for a hearing within the stated time frame, the Department shall issue a notice of an administrative hearing. The notice of an administrative hearing shall contain:

- 1) a statement of the nature of the hearing;
- 2) a statement of the time and place of the hearing or if a pre-hearing or conference is scheduled by the Department, the time and place of the conference;
- 3) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- 4) a reference to the applicable sections of USDA WIC Regulations, the Act, or this Part.

Section 672.620 Motions-

- a) Motions, unless made during a hearing or the pre-hearing conference, shall be made in writing and shall be set for the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of motion. Motions to amend the notice of violation and answer may be allowed in accordance with Section 2-616 of the Code of Civil Procedure (Ill. Rev. Stat. 1989, ch. 110, par. 2-616), upon proper motion at any time during the pendency of the proceeding, such motion shall not effect the hearing timeframes set forth in this Part. Motions based on a matter which does not appear of record shall be supported by affidavit.

- b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. Such title shall be in capital letters and shall be placed below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other Motion.

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- c) If not raised at the earliest opportunity, motions to the pleadings shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 672.625 of this Part or the information sought is obtainable through discovery.
- d) The Hearing Officer shall not have the authority to postpone, vacate, or overturn an order of the Department, but may make a recommendation to the Director any time before he issues the Hearing Officer's report that an interim order be issued postponing, vacating, or overturning the order if circumstances merit such a recommendation.
- e) Motions for a continuance shall be granted only in accordance with Section 2-1007 of the Code of Civil Procedure (Ill. Rev. Stat. 1989, ch.110, par. 2-1007). Motions for continuance shall be in writing and filed at least three (3) calendar days prior to the hearing. Such motions shall state the basis for the request and all steps taken to avoid the necessity of a continuance.
- 1) Only one continuance shall be allowed for the Vendor and Department. No continuance may be for more than fourteen (14) calendar days.
- 2) After one continuance has been granted to a party, an additional continuance may be granted to that party only if there is a bona fide emergency or "Act of God."
- 3) Whenever possible as much of the hearing as possible shall be heard and only those matters that must be continued shall be continued.
- f) All motions, petitions and other pleadings under this Section shall be filed with the Hearing Officer with a copy being sent to all other parties.

Section 672.625 Discovery

- a) Prior to or at the pre-hearing conference, the Department shall provide an Applicant or Vendor with a copy of all the Department's investigative reports including any Food Instruments specific to the matter in dispute and to the Applicant or Vendor against whom the administrative action is pending. If no pre-hearing conference is requested, the Department shall provide copies of the investigative reports and Food Instruments prior to hearing.
- b) Upon written request served on the opposing party, any party shall be entitled to:
 - 1) the name and address of any witness who may be called to testify;

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- 2) copies of any document which may be offered as evidence; and
- 3) a description of any other evidence which may be offered.
- c) Whether or not a request is made, during discovery an Applicant or Vendor shall be entitled to any exculpatory evidence in the Department's possession which tends to support the Applicant or Vendor's position or which might impeach the credibility of a Department witness.
- d) Upon a written request served on the Applicant or Vendor, at any time after a notice or petition for hearing is filed, or at any stage of the hearing, the Applicant or Vendor will be required to produce documents, books, records, or other evidence which relate directly to conduct of his Business Entity.

Section 672.630 Form of Papers

- a) All papers filed in any proceeding except exhibits shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper and long quotations shall be single spaced and indented. Mimeographed, multigraphed, hectographed, photostated papers, facsimile and the like, shall be accepted as typewritten.
- b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of eight and one half inches (8 1/2) and a length of eleven (11) inches and shall have inside margins not less than one (1) inch wide. Whenever practical, all exhibits of a documentary character shall conform to said requirements.
- c) All pleadings, written motions, or notices filed in the administrative proceeding shall be dated and signed in ink by the party filing the paper or his attorney.
- d) Pleadings, written motions, and notices shall contain the address of the party filing the paper or, if represented by an attorney, the name and business address of such attorney.

Section 672.635 Service

- a) Notices under Section 672.615 shall be served either personally or by Certified Mail upon all parties or their agents appointed to receive service of process.
- b) Service of pleadings or motions under Section 672.615 or Section 672.620 of this Part, unless otherwise provided for in this Section, shall be made by delivering in person, transmitting by facsimile or by depositing it in the United States Mail, properly

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addressed with postage prepaid, one copy to each party to the proceeding. When any party has appeared by attorney, service upon the attorney shall be deemed service upon such party.

- c) Proof of service under subsection (b) shall be by certificate of attorney, affidavit or acknowledgment.

Section 672.640 Pre-Hearing Conferences

- a) A pre-hearing conference shall be scheduled by the Hearing Officer or the Department as a result of a request pursuant to subsection (b). (See Section 672.615(b)). This conference shall be held prior to the date of hearing and shall be for the purpose of considering:

- 1) the simplification of the issues;
- 2) amendments to the pleadings;
- 3) the possibility of obtaining admissions of fact and of documents which shall avoid unnecessary proof;
- 4) the limitation of the number of expert witnesses; and
- 5) any other matters which may aid in the disposition of the hearing.

- b) After a pre-hearing conference, the Hearing Officer shall make a report which recites any action taken by the Hearing Officer and any agreements made by the parties as to any of the matters considered and which specifies as the issues for hearing those not disposed of at the conference.

- c) A certified stenographic reporter shall not be present at a pre-hearing conference unless one of the parties to the proceeding requests the Department to make arrangements for a court reporter to be present. Such request must be received by the Department at least two (2) working days in advance of the scheduled pre-hearing conference. The party requesting the presence of the court reporter shall be billed directly for the services of the reporter.

Section 672.645 Conduct of Hearings

- a) All hearings conducted in any proceedings shall be open to the public.
- b) Hearings shall be conducted by the Director or by a Hearing Officer appointed by the Director. If the Director conducts the hearings, any reference, to this Part to the Hearing Officer, shall be read to refer to the Director.

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- c) The Hearing Officer shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; rule upon the admissibility of evidence and amendments to pleadings; issue recommended findings to the Director.

- d) The Hearing Officer shall direct all parties to enter their appearances on the record.

- e) The Hearing Officer shall be appointed by the Director and shall be an attorney licensed to practice law in the State of Illinois.

- f) Written opening arguments, written closing arguments, legal memorandum, trial briefs, or similar documents shall not be permitted unless all parties so stipulate. This rule shall not prohibit the Hearing Officer from requesting that certain issues be briefed by the parties.

- g) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless precluded by law, disposition may be made of any Contested Case by stipulation, agreed settlement, consent order, or default.

- h) At any stage of the hearing or after all parties have completed the presentation of their evidence, the Department, or its Hearing Officer may call upon any party, technical staff of the Department, or other departments of state government, or state universities for further materials or relevant evidence upon any issue.

- i) The rules of evidence and privilege as applied in civil cases in the circuit court of this state shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs. Immaterial, irrelevant, or unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of the Director and also in formulating the findings of fact and conclusions, of law which support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of the Department which is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not

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material or relevant, the party offering the same shall plainly designate the matter so offered. Objections to evidentiary offers may be made and shall be noted in the record.

- j) Official notice may be taken of matters of which circuit courts of this state may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Department's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

- k) The Department will arrange for a certified stenographic reporter to make a stenographic record of the hearings in all administrative hearings under this Part. Any person may make arrangements to obtain a copy of the stenographic record from the reporter. The Department reserves the right to employ a certified stenographic reporter. A copy of any stenographic record made by a Department employee may be purchased from the Department at a cost of one dollar (\$1) per page.

- l) Suggested corrections to the transcript of record may be offered within five (5) calendar days after the transcript is filed in the proceedings, unless the Director or the Hearing Officer permits suggested corrections to be offered thereafter. Suggested corrections shall be served upon or brought to the attention of such party, whose appearance is of record, or his attorney, the official reporter, or the Hearing Officer. If suggested corrections are not objected to, the Hearing Officer shall direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the Hearing Officer, who shall then determine the manner in which the record shall be changed, if at all.

- m) No exception need be taken to any ruling or action of the Department or of its Hearing Officer.

- n) Venue shall be the location designated in the notice of administrative hearing or notice of an opportunity for an administrative hearing. Venue may be moved to another location only upon stipulation by all parties or ordered by the Hearing Officer.

- o) If a party, or any person at the instance of or in collusion with a party, violates any of this Part or ruling of the Hearing Officer, the Hearing Officer, on motion, may enter such orders as are just, including, among others, the following:

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- 1) that further proceedings be stayed until the order or rule is complied with;
- 2) that the party in violation be barred from filing any other pleading relating to any issue to which the refusal or failure relates;
- 3) that he be barred from maintaining any particular claim or defense relating to that issue;
- 4) that a witness be barred from testifying concerning that issue;
- 5) that, as to claims or defenses asserted in any pleading to which that issue is material, a judgment by default be entered against the offending party or that his notice or petition suit be dismissed with or without prejudice; or
- 6) that any portion of his pleadings relating to that issue be stricken and judgment be entered as to that issue.

Section 672.650 Subpoenas

- a) Subpoenas requiring the attendance and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda may be issued by the Director or the Hearing Officer upon his own motion or upon the written request of any party to the proceeding. The Director or the Hearing Officer may require the party requesting the issuance of subpoenas to demonstrate the relevancy of the request to the issues in the hearing.
- b) Subpoenas issued by the Director or the Hearing Officer upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas. Subpoenas shall be served personally, transmitted by facsimile or by Certified Mail.
- c) The witness fee for attendance and travel shall be the same as the fee of the witnesses before the Circuit Courts of this State. When a witness is subpoenaed by the Director or Hearing Officer upon his own motion or upon the request of the Department, the witness fee shall be the same as the fee of the witnesses before the Circuit Courts of the State and the travel expenses shall be paid in accordance with the State travel rules (80 Ill. Adm. Code 3000).

Section 672.655 Burden of Proof

- a) The burden of proof rests with the Department in relation to all administrative actions initiated by the Department pursuant to

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Section 672.510.

- b) The burden of proof rests with the Applicant as to all administrative actions initiated upon a petition for hearing filed by an Applicant after the denial of Authorization under Section 672.225.
- c) Each party who initiates an administrative action as indicated in Section 672.615 (a) and (b) shall prove his case by a preponderance of the evidence.

Section 672.660 Hearing Officer's Report and Final Decision

- a) At the conclusion of a hearing at which the Director has not presided, the Hearing Officer shall make a report of the hearing, with his findings of fact and conclusions of law and his recommendations, if any, to the Director which report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or evidence made a part of the record and any other material which is deemed to be a part of the record.

- b) The Director or his designee shall review the entire record of administrative proceedings as set forth in Section 672.670 and shall issue a final order within ninety (90) calendar days of the receipt of the request for a hearing.

- c) The Director shall adopt a final decision in each case supported by concise findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the finding.

- d) A copy of any decision or order of the Director shall be served personally or by Certified Mail or by registered mail upon all parties of record or their agents appointed to receive service.

Section 672.665 Records of Proceedings

- a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:
 - 1) all pleadings (including all notices and responses thereto), motions, and rulings;
 - 2) a transcript of the hearing, if any, and all evidence received;

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- 3) a statement of matters officially noticed;
 - 4) offers of proof, objections and ruling thereon;
 - 5) proposed findings and exceptions;
 - 6) any decision, opinion or report by the Hearing Officer;
 - 7) all staff memoranda or data submitted to the Hearing Officer or members of the Department in connection with their consideration of the case; and
 - 8) any communication prohibited by Section 15 of the IAPA; however, such communications shall not form the basis for any finding of fact.
- b) Unless a party requests that the following documents be included in the record, the following shall be excluded from the record:
- 1) subpoenas;
 - 2) requests for subpoenas;
 - 3) cover letters;
 - 4) notices of filing or proofs of service; and
 - 5) certificates of mailing for regular mail.

Section 672.670 Miscellaneous

- a) Construction of Rules: This Part shall not be construed to abrogate, modify, or limit any rights, privileges, or immunities granted or protected by the Constitution or laws of the United States or the Constitution or laws of the State of Illinois. In case of any conflict between this Part and the IAPA or the WIC Vendor Management Act, the terms of the latter shall control. In case of any conflict between this Part and Article II of the Code of Civil Procedure or the Supreme Court practice rules, the terms of this Part shall control.

- b) Waiver: Compliance with any of the provisions of Subpart F of this Part or with any or all provisions of the IAPA regarding Contested Cases may be waived by written stipulation of all parties.
- c) Jurisdiction: For the purpose of this Part, a pre-hearing conference shall be considered the first stage of a hearing.

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NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Admissions and Credentials
- 2) Code Citation 11 Ill. Adm. Code 1428
- 3) Section Number: Adopted Action:
1428.160 Repeal
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par 37-9(b)
- 5) Effective Date of Rule: December 4, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: December 4, 1990
- 9) Notice of Proposal Published in Illinois Register:

14 Ill. Reg. 10675 - July 6, 1990

- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)? No.
- 11) Differences between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will these amendments replace emergency amendments currently in effect? No.
- 14) Are there any other proposed amendments pending in this Part? No.
- 15) Summary and purpose of rules: This rulemaking eliminates the necessity of a report on tax exempt credentials.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The full text of the adopted amendments begins on the next page:

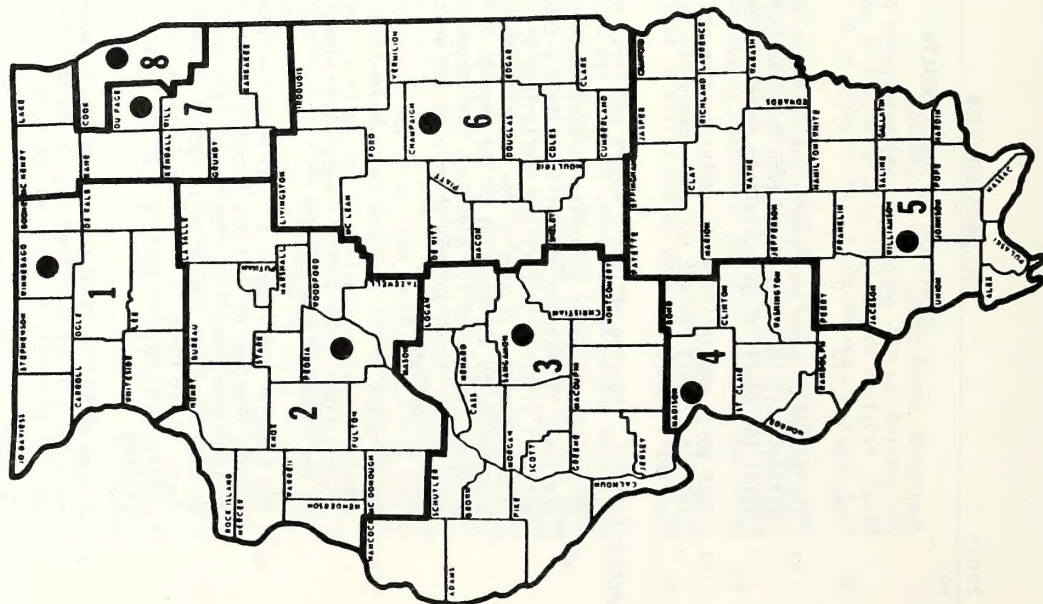
ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 672. Appendix A Illinois Regional Map

Actual size and location for region nine (9) is an approximate only. Region nine (9) consists of all ZIP Code areas which contain a prefix of 606.



ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1428

ADMISSIONS AND CREDENTIALS

Section	State Admissions Tax
1428.10	Admission Records
1428.20	Weekly Remittance of Tax
1428.30	Admission Statements
1428.40	Delivery of Reports
1428.50	Board Approval of Tickets and Credentials
1428.60	Control Numbers
1428.70	Revocation of Tickets, Credentials
1428.80	Notice of State Tax
1428.90	Credential and Ticket Specimens
1428.100	Gate Cards
1428.110	Tax Exempt Credentials
1428.120	Report on Tax Exempt Credentials
1428.130	Concessionaires, Employees Credentials
1428.140	Requisitions for Passes
1428.150	Tax Exempt Credentials Report (Repealed)
1428.160	Summary of Tickets and Credentials
1428.170	Track Responsible for Credentials
1428.180	Board Access to Records
1428.190	Turnstiles
1428.200	Admission to Track
1428.210	Revocation of Credentials
1428.220	Admissions for Licensees
1428.230	

AUTHORITY: Implementing Section 9 (b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8 par. 37-96) and authorized by Section 25 of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8, pars. 37-9(b) and 37-25)).

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); amended March 14, 1975, filed and effective March 27, 1975; codified at 5 Ill. Reg. 11002; amended at 14 Ill. Reg. 20042, effective December 4, 1990.

Section 1428.160 Tax Exempt Credentials Report (Repealed)

- a) The operator must file reports with the Board containing all information relative to the issuance of tax-exempt credentials or other evidence of right to enter grounds. These reports shall include:
- 1) Classification or type of ticket or credential.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

- 2) The name of pass-holder.
 - 3) Serial number of pass.
 - 4) The duties or official business of each pass-holder.
- b) One complete report must be filed with the Board on or before 10 days after opening date of the race meeting and an additional supplementary report for the remainder of the race meeting must be filed on the closing day. In the event that the Board employees have custody of tax-exempt tickets and credentials and issuance of tickets or credentials is supported by requisitions prescribed by the Secretary of the Board, at the discretion of the Secretary, the filing of the above-mentioned reports may be waived.

(Source: Repealed at 14 Ill. Reg. 20042, effective December 4, 1990)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Medication
- 2) Code Citation 11 Ill. Adm. Code 509

<u>Section Number:</u>	<u>Adopted Action:</u>
509.150	Amendment
509.190	Amendment
509.240	Amendment
509.260	Amendment
509.265	Amendment

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par 37-9(b)

- 5) Effective Date of Rule: December 4, 1990

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporation by reference? No.

- 8) Date filed in Agency's Principal Office: December 4, 1990

- 9) Notice of Proposal Published in Illinois Register:
14 Ill. Reg. 10679 - July 6, 1990

- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)?
No.

- 11) Differences between proposal and final version: "Suitable pre-race laboratory structures include, but are not limited to, a structure which contains plumbing, electricity, refrigeration, telephones, heat, sewers, and water." was added as the last sentence of Section 509.150(f).

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

- 13) Will these amendments replace emergency amendments currently in effect? No.

- 14) Are there any other proposed amendments pending in this Part? No.

- 15) Summary and purpose of rules: This rulemaking establishes the requirement of providing a suitable structure for pre-race testing. It also eliminates old rule citations.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted amendments shall be directed to:

Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER C: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 509

MEDICATION

Paragraphs 37-2, 37-9(b), 37-36a and 37-40).

SOURCE: Adopted at 5 Ill. Reg. 4599, effective April 17, 1981; codified at 5 Ill. Reg. 10908; amended at 7 Ill. Reg. 1429, effective January 24, 1983; amended at 7 Ill. Reg. 15869, effective November 10, 1983; emergency amendment at 7 Ill. Reg. 16191, effective November 28, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6094, effective April 19, 1984; amended at 8 Ill. Reg. 7002, effective May 7, 1984; amended at 11 Ill. Reg. 14424, effective August 14, 1987; amended at 11 Ill. Reg. 15492, effective September 3, 1987; amended at 14 Ill. Reg. 8186, effective May 15, 1990; amended at 14 Ill. Reg. 20045, effective December 4, 1990.

Section 509.150 Test Samples

- a) The winning horse in every race and any other horse or horses selected at the discretion of the stewards, shall have taken from it test samples.
- b) All horses entered to race shall be subject to a pre-race blood test by the state veterinarian, Stewards or the Board. Test samples shall be taken from all of the horses in any given race randomly selected for pre-race testing. A negative pre-race test finding shall not preclude the stewards from ordering post-race testing of a horse.
- c) Any person having the care, custody, and/or control of any horse who refuses to submit such horse for test samples shall have his license suspended for not less than 30 days and such horse shall be disqualified.
- d) Test samples shall be taken under the supervision of the state veterinarian by persons appointed by the Board. During the taking of such test samples, the owner or trainer or their agent or employee may be present at all times.
- e) The test samples shall be sealed by the state veterinarian or those under his/her supervision and the evidence of such sealing shall be witnessed by the signature of the owner or trainer or their agent or employee.

(Source: Amended at 14 Ill. Reg. 20045, effective December 4, 1990)

Section 509.190 Procedures, Purses, Retention of Samples,---Htc---(Formerly Thoroughbred-Rule-317-and-Harness-Rule-21:17)

- a) Upon receipt of a laboratory report from the laboratory, the stewards or the Secretary of the Board shall immediately direct that no purse money shall be awarded to the horse in question pending a final

AUTHORITY: Implementing and authorized by the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8 par. 37-1 et seq.; See in particular

Section	Purpose	
509.10	Definitions	
509.20	Racing Soundness Exam	
509.30	Foreign Substance Banned	
509.40	Twenty-four Hour Ban	
509.50	Unlawful Administration	
509.60	Knowing Entry of Medicated Horse Prohibited	
509.70	Pharmaceutical Aids Banned	
509.75	Additions to Permitted List	
509.80	Permitted Use of Foreign Substances	
509.90	Possession of Needles and Injectables Prohibited	
509.100	Prescription Items - Animal Use	
509.110	Possession of Drugs and Chemicals	
509.120	Human Use of Substances and Hypodermic Syringes or Needles	
509.130	Detention Barn	
509.140	Test Samples	
509.150	Referee Samples	
509.160	Laboratory Reports and Findings	
509.170	Laboratory Reports and Findings with Respect to Test Samples for	
509.175	Pre-Race Testing	
509.180	Distribution of Purse	
509.190	Procedures, Purse, Retention of Samples-- But--(Formerly Thoroughbred	
509.195	Rule-317-and-Harness-Rule-2117)	
509.200	Stewards Action on Laboratory Reports Under Pre-Race Testing	
509.210	Trainer Responsibility	
509.220	Prima Facie Evidence	
509.230	Bleeders	
509.240	Post Mortems	
509.250	Penalties - Rules--69-67--69-77-69-367--or-69-26-5--(Sections 509.60,	
509.260	509.70, 509.260, or 509.265) Violation	
509.265	Penalties - Failure to Guard Cases	
509.270	Penalties - Violations of 69-9-(a)-(Section 509.90(a)) , Excessive Use	
509.280	of Phenylbutazone	
509.285	Penalties--Violations of 69-7-5--(Section 509.75) Pharmaceutical Aids	
509.290	Other Penalties	
509.295	Veterinarian's Records	
509.300	Offenses Occurring Prior to the Effective Date of the Rules	

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

determination by the stewards or the Board of the accuracy of the laboratory's report. The stewards or the Secretary of the Board shall notify the owner, trainer, and any other person having care or custody or control of the horse. If the purse money has been distributed, the stewards or the Secretary shall order it returned pending the determination of the accuracy of the laboratory's report. The stewards or the Secretary of the Board shall proceed to conduct an inquiry or the Board shall conduct an inquiry or hearing.

b) If the report of a laboratory is not contested or if the stewards or the Board determine that the laboratory report is accurate, all purse money won by the horse in the race in question shall be forfeited and redistributed among the remaining horses according to their order of finish. No such forfeiture and redistribution shall affect the distribution of pari-mutuel pools.

- c) 1) If no report has been issued by the laboratory to the stewards or the Board within 60 days after the date of a race, the owner of a horse shall become legally entitled to the money in the purse and it shall be conclusively presumed that the conditions precedent to such entitlement have been met.
- 2) Provided, however, laboratory reports issued more than 60 days after the date of a race may be considered by the stewards or the Board as evidence of a rule violation under Rules-69-6-and--69-7 or-69-20-111-111-Adm-Code Section 509.60, 509.70, or 509.2007
- d) If a laboratory report has been issued, whatever remains of that particular test sample shall be retained until all legal proceedings have been concluded.
- e) All samples shall be retained by the Laboratory for the maximum period permitted by available storage facilities. No samples may be destroyed when storage facilities become unavailable except upon approval by a majority of the members of the Board.

(Source: Amended at 14 Ill. Reg. 20045, effective December 4, 1990)

Section 509.240 Penalties - Rules-69-67--69-7,--69-26,--or--69-26-5--(Sections 509.60, 509.70, 509.260, or 509.265) Violation

- a) When imposing penalties for a violation of Rule C9.6, C9.7, C9.26, or C9.26.5, the stewards and the Board shall consider, but not be limited to, the following factors:
- 1) the nature of the foreign substance; e.g., cough medicine, steroid, narcotic, stimulant, depressant, etc.;
 - 2) the accessibility of the drug; e.g., can be purchased over the counter, only with a prescription, only with a license for controlled substances, cannot be purchased in this country;
 - 3) the age and experience of the violator;
 - 4) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

- 5) what action, if any, was taken by the violator of the rules to avoid such violation;
- 6) the average handle at the race meeting where the violation occurred, and the purse of the race.
- b) The stewards shall not be required to articulate any of the foregoing in their ruling nor shall ignorance of the rules be deemed a mitigating factor.

(Source: Amended at 14 Ill. Reg. 20045, effective December 4, 1990)

Section 509.260 Penalties - Violations of 69-9--(a)--(Section 509.90(a)), Excessive Use of Phenylbutazone

- a) Each time that the laboratory finds that the limit of 2 micrograms of phenylbutazone and/or its metabolites per milliliter of plasma (hereinafter referred to as a "bute overage") has been exceeded, the trainer and the veterinarian attending said horse shall be notified.
- b) The penalties for exceeding this limit shall be computed as follows:
- 1) The first two times that the laboratory finds bute overages with respect to any horses of a trainer, the trainer shall receive a written warning. Provided, however, that a trainer who has started more than 150 horses in any calendar year shall be entitled to one additional warning and shall be entitled to one further warning for each subsequent 150 starts in excess of 300. The burden of proving the number of horses started shall be on the trainer.
 - 2) If the laboratory finds a bute overage with respect to any horses of a trainer, after the trainer has already received two written warnings, the stewards shall impose a civil penalty not to exceed \$500.
 - 3) If the laboratory finds a second bute overage with respect to any horses of a trainer, after the trainer has already received two written warnings, the stewards shall impose a civil penalty not to exceed \$1000.
 - c) No violation shall be deemed to have occurred unless and until the trainer has received written notice of the bute overage.
 - d) Penalties shall be computed on an annual basis and shall not carry over from year to year.
 - e) If the bute overage occurred due to the negligence of the veterinarian attending the horse, the veterinarian shall be penalized in addition to, or instead of, the trainer.

(Source: Amended at 14 Ill. Reg. 20045, effective December 4, 1990)

Section 509.265 Penalties-Violations of 69-7-5-(Section 509.75) Pharmaceutical Aids

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Racetrack Operators and Their Duties
- 2) Code Citation 11 Ill. Adm. Code 1305
- 3) Section Number:
1305.120 Adopted Action:
1305.310 Amendment
New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par 37-9(b)
- 5) Effective Date of Rule: December 4, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: December 4, 1990
- 9) Notice of Proposal Published in Illinois Register:
14 Ill. Reg. 10687 - July 6, 1990
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)?
No.
- 11) Differences between proposal and final version: Section 1305.120
"may" was changed to "shall".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will these amendments replace emergency amendments currently in effect? No.
- 14) Are there any other proposed amendments pending in this Part? No.
- 15) Summary and purpose of rules: This rulemaking establishes a provision for ambulance service to the nearest hospital for every racetrack to ensure the immediate care of any injured person. It also establishes the requirement of a backstretch paging system to ensure proper communication between the Illinois Racing Board and its licensees.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

- a) Each time that the laboratory finds that a pharmaceutical aid is present in a pre- or post-race test sample, the trainer and the veterinarian attending the horse shall be notified.
- b) The penalties for findings of pharmaceutical aids in pre- or post-race samples shall be computed as follows:
 - 1) The first two times that the laboratory finds pharmaceutical aids in the pre- or post-race test sample of any horses of a trainer, the trainer shall receive a written warning.
 - 2) If the laboratory finds a pharmaceutical aid in pre- or post-race test sample of any horses of a trainer after the trainer has already received two written warnings, the stewards shall impose a civil penalty not to exceed \$500.
 - 3) If the laboratory finds a second pharmaceutical aid in a pre- or post-race test sample of any horses of a trainer after the trainer has already received two written warnings, the stewards shall impose a civil penalty not to exceed \$1000.
- c) No violation shall be deemed to have occurred unless and until the trainer has received written notice of the laboratory finding.
- d) If the presence of the pharmaceutical aid occurred due to the negligence of the veterinarian attending the horse, the veterinarian shall be penalized in addition to, or instead of, the trainer.

(Source: Amended at 14 Ill. Reg. 20045, effective December 4, 1990)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted amendments shall be directed to:

Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph
Suite 11-100
Chicago, Illinois 60601

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1305

RACE TRACK OPERATORS AND THEIR DUTIES

Section	
1305.10	Definition of Race Track Operator
1305.20	Application
1305.30	Time for Filing Applications
1305.40	Conditions of License
1305.45	Lease of Race Track (Repealed)
1305.50	Written Disclosure
1305.60	Notice of Changes
1305.70	Political Contributions
1305.80	Termination of License
1305.90	Wagering On Races Conducted off of Premises
1305.100	Reciprocal Suspensions
1305.110	Horse Ambulance
1305.120	Ambulance for Racing Strip
1305.130	First Aid Station
1305.140	Medical Services
1305.150	Illinois Racing Board Office
1305.170	Moving Office (Repealed)
1305.180	Judge's Stand
1305.190	Driver's Bench
1305.200	Stabling of Horses
1305.220	Stall Numbers and Distance Poles
1305.230	Licensed Outrider
1305.240	Drinking Fountains and Rest Rooms
1305.250	Telephones
1305.260	Broadcasting and Telecasting
1305.270	Pest Control
1305.280	Alcohol Sales
1305.290	Track Lights
1305.300	Fire Prevention
1305.310	Backstretch Paging System
1305.320	Admissions
1305.330	Inspection Report
1305.340	Lottery Events at Race Tracks
1305.350	Off-Track Betting Agencies of Other States
1305.370	Reporting of Horsemen's Purse Account

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b)).

SOURCE: Published in Rules and Regulations of Harness Racing, (original date

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

not cited in publication); amended October 9, 1973, filed October 19, 1973; amended October 25, 1973, filed December 17, 1973; amended February 15, 1974, filed February 28, 1974; amended October 25, 1974, filed November 7, 1974; added May 9, 1975, filed May 15, 1975; amended August 21, 1976, filed August 21, 1976, filed August 30, 1976; amended at 2 Ill. Reg. 27, p. 275, effective July 10, 1978; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; codified at 5 Ill. Reg. 10923; amended at 6 Ill. Reg. 11063, effective September 1, 1982; amended at 9 Ill. Reg. 9165, effective May 20, 1985; amended at 14 Ill. Reg. 20052, effective December 4, 1990.

Section 1305.120 Ambulance for Racing Strip

The race track operator shall furnish a manned ambulance each day that the main track is open for racing or exercising horses, equipped, ready for immediate duty, and to be placed at the entrance of the racing strip, which is at no time obstructed by people, vehicles, or equipment, so that no time may shall be lost in times of emergency. All operators shall furnish ambulance services from its racetrack to the nearest hospital on any day that the operator is racing or allowing horses to exercise.

(Source: Amended at 14 Ill. Reg. 20052, effective December 4, 1990.)

Section 1305.310 Backstretch Paging System

Each organization shall have in place a suitable backstretch paging system.

(Source: Added at 14 Ill. Reg. 20052, effective December 4, 1990.)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Starting
- 2) Code Citation 11 Ill. Adm. Code 1415
- 3) Section Number: Adopted Action:
1415.160 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 8, par 37-9(b)
- 5) Effective Date of Rule: December 4, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: December 4, 1990
- 9) Notice of Proposal Published in Illinois Register:
14 Ill. Reg. 10696 - July 6, 1990
- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)?
No.
- 11) Differences between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will these amendments replace emergency amendments currently in effect? No.
- 14) Are there any other proposed amendments pending in this Part? No.
- 15) Summary and purpose of rules: This rulemaking establishes a requirement of a padded starting gate to ensure the safety of horses and jockeys.
- 16) Information and questions regarding these adopted amendments shall be directed to:
Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

Except in cases of emergency, a padded starting gate, approved by the Board, shall be used in starting all races.

(Source: Amended at 14 Ill. Reg. 20056, effective December 4, 1990)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING

CHAPTER 1: ILLINOIS RACING BOARD

SUBCHAPTER 9: RULES AND REGULATIONS OF HORSE RACING (THOROUGHBRED)

PART 1415
STARTING

Section	Identification of Horses
1415.10	Lip Tattoo
1415.15	Authority of Starter
1415.20	Jockeys to Dismount
1415.30	All Horses Parade
1415.40	Horses Led to Post
1415.50	Starter's Orders
1415.60	Starter's Assistants
1415.70	Causes of Delay
1415.80	Report Presence on Grounds
1415.90	Jockey Fees Paid
1415.100	Licensed Trainer
1415.110	Veterinarian's List
1415.120	Scratches and Refunds
1415.130	Number of Starters
1415.140	Horse Must Run the Course
1415.150	Starting Gate
1415.160	Post Positions
1415.170	Horse, When a Starter
1415.180	Failure of Starting Gate
1415.190	Start Without Gate
1415.200	Horse, When a Starter Without a Gate
1415.210	Schooling
1415.220	Twitches and War Bridles (Repealed)
1415.230	Starter (Repealed)
1415.240	Starter Reports Fines (Repealed)
1415.250	Inspection of Plating
1415.260	Change in Course
1415.270	

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b)).

SOURCE: Published in Rules and Regulations of Horse Racing, (original date not cited in publication); amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10985; amended at 6 Ill. Reg. 10013, effective August 3, 1982; amended at 7 Ill. Reg. 2170, effective February 4, 1983; amended at 14 Ill. Reg. 20056, effective December 4, 1990.

Section 1415.160 Starting Gate

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

1) The Heading of the Part: Totalizator Operations

2) Code Citation 11 Ill. Adm. Code 433

3) Section Number: Adopted Action:
433.295 New Section
433.298 New Section

4) Statutory Authority: Ill. Rev. Stat. 1985, ch. 8, par 37-9(b)

5) Effective Date of Rule: December 4, 1990

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No.

8) Date filed in Agency's Principal Office: December 4, 1990

9) Notice of Proposal Published in Illinois Register:

14 Ill. Reg. 10700 - July 6, 1990

10) Has JCAR issued a Statement of Objections to this (these) rule(s)?
No.

11) Differences between proposal and final version: None.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.

13) Will these amendments replace emergency amendments currently in effect? No.

14) Are there any other proposed amendments pending in this Part?
433.35 - 14 Ill. Reg. 12393 - August 3, 1990

15) Summary and purpose of rules: This rulemaking establishes new requirements for totalizator operators. It will provide for equipment in each totalizator facility to ensure immediate communication between facilities.

16) Information and questions regarding these adopted amendments shall be directed to: Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER 1: ILLINOIS RACING BOARD

SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 433

TOTALIZATOR OPERATIONS

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section	Definitions
433.10	Purpose
433.15	Pari-Mutuel Audit Unit
433.20	Access to Totalizator and Pari-Mutuel Facility
433.25	Work Area for Pari-Mutuel Auditors
433.30	System failure
433.35	Waivers for Scientific Advancements
433.45	Filings
433.50	Standards
433.55	

SUBPART B: PROCEDURES AND REPORTS REQUIRED OF ORGANIZATION LICENSEES

Section	Cashed Tickets
433.60	Summary of Pari-Mutuel Operations
433.70	

SUBPART C: MUTUEL TICKETS

Section	Marketing of Tickets
433.100	Status of Outs Account
433.110	Cancellation of Tickets
433.120	Computer Print-Outs
433.140	Additional Method of Calculation
433.145	

SUBPART D: MUTUEL FACILITIES; TICKETS; SPECIFICATION REQUIREMENTS AND PROCEDURES

Section	No Reduction in Capacity
433.200	Totalizators
433.210	Final Confirmation
433.220	Status Report
433.230	Locking Devices
433.240	Control of Locking Devices
433.250	Accounting for Individual Tickets
433.260	
433.270	

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

433.280 Security for Tote Equipment
433.290 Access to Tote Room
433.295 Fax Machine
433.298 Hot-Line Telephone

SUBPART E: TOTALIZATOR SYSTEM: SYSTEM REQUIREMENTS

Section
433.300 General System Requirements
433.310 Redundant Capabilities
433.320 Redundant Hardware
433.330 Stop Betting Command
433.340 Record of Stop Betting Command
433.350 Odds Board Control
433.360 Odds Update
433.370 Retention of Racing Program Data
433.380 Control Access to Tote Computer Equipment
433.390 Software
433.400 Provide Summary
433.410 Unique Ticket Number
433.420 Uncashed Tickets
433.430 Computer Produced Reports
433.440 Magnetic Log Files
433.450 Security Sub-System
433.455 Access to Sub-Systems
433.460 Power Fluctuations
433.470 Two Independent Sets of Pool Totals
433.480 Loss of Communications Reports
433.490 Cancellations

SUBPART F: TOTALIZATOR SYSTEM: PROCEDURAL REQUIREMENTS

Section
433.500 General Procedural Requirements
433.510 Pre-Program Tests
433.520 Totalizator Programs
433.530 Duplicate Copy of Totalizator Programs
433.540 Notice of Software Modifications
433.550 Testing of Software Modifications
433.560 Controlling System Utilities
433.570 Access to Tote Room
433.580 Control Log
433.600 Back-Up Procedures
433.610 Shut-down Procedures

AUTHORITY: Implementing Section 15 and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b), 37-15).

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

SOURCE: Adopted at 11 Ill. Reg. 12380, effective July 18, 1987; amended at 11 Ill. Reg. 20059, effective December 4, 1990.

SUBPART D: MUTUEL FACILITIES; TICKETS; SPECIFICATION REQUIREMENTS AND PROCEDURES

Section 433.295 Fax Machine

Properly operating Fax Machines shall be present in all rooms and facilities used in connection with the operation of a totalizator system.

(Source: Added at 14 Ill. Reg. 20059, effective December 4, 1990)

Section 433.298 Hot-Line Telephone

All totalizator system licensees shall provide hot-line telephones from their rooms to any facility used by another totalizator system licensee for purposes of conducting intertrack wagering.

(Source: Added at 14 Ill. Reg. 20059, effective December 4, 1990)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Trifecta
- 2) Code Citation 11 Ill. Adm. Code 409
- 3) Section Number: Adopted Action:
409.90 New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1985, ch. 8, par 37-9(b)
- 5) Effective Date of Rule: December 4, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: December 4, 1990
- 9) Notice of Proposal Published in Illinois Register:

14 Ill. Reg. 10705 - July 6, 1990

- 10) Has JCAR issued a Statement of Objections to this (these) rule(s)?
No.

11) Differences between proposal and final version: 409.90(b) was changed from "For harness racing, at least 9 betting interests shall be carded and in the event of scratches at scratch time at least 8 betting interests shall remain. Trifecta wagering will still be permitted if scratches occurring after the horses leave the paddock reduce the field to 7 betting interests, but in no event shall trifecta wagering be allowed on a race with fewer than 7 betting interests." to "For harness racing, at least 8 betting interests shall be carded, unless the stewards grant permission to card 7 betting interests. In no event shall trifecta wagering be allowed on races containing fewer than 7 betting interests." The Ill. Rev. Stat. citation in the AUTHORITY note was updated to 1990. The last sentence of Section 409.90 was labeled (c).

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.

- 13) Will these amendments replace emergency amendments currently in effect? No.

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NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any other proposed amendments pending in this Part? No.
- 15) Summary and purpose of rules: This rulemaking establishes a specific criteria for carding Trifecta races.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Illinois Racing Board
Legal Department
State of Illinois Center
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The full text of the adopted amendments begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 409

TRIFECTA RULES

Section	
409.10	Trifecta Wager
409.20	Entries and Fields Prohibited
409.30	Winning Combinations
409.40	Dead Heat
409.50	Irregular Wagering Pattern
409.60	Special Conditions for Thoroughbred Trifecta Races (Repealed)
409.65	Trifecta Races
409.70	Special Conditions for Harness Trifecta Races (Repealed)
409.75	Restrictions on Thoroughbred Trifecta Races
409.80	Waiver of Rules (Repealed)
409.85	Restrictions on Harness Trifecta Races
409.90	Minimum Fields

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1989, ch. 8, par. 37-9(b)).

SOURCE: Adopted at 4 Ill. Reg. 38, p. 187, effective September 8, 1980; codified at 5 Ill. Reg. 10894; emergency amendment at 9 Ill. Reg. 2532, effective February 8, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 10270, effective June 21, 1985; amended at 14 Ill. Reg. 20063, effective December 4, 1990.

Section 409.90 Minimum Fields

- a) For thoroughbred racing, at least 8 betting interests shall be carded and in the event of scratches at scratch time at least 7 betting interests shall remain. Trifecta wagering will still be permitted if scratches occurring after the horses leave the paddock reduce the field to 6 betting interests, but in no event shall trifecta wagering be allowed on a race with fewer than 6 betting interests.
- b) For harness racing, at least 8 betting interests shall be carded, unless the stewards grant permission to card 7 betting interests. In no event shall trifecta wagering be allowed on races containing fewer than 7 betting interests.
- c) This Section shall not be applicable to Stakes Races.

(Source: Added at 14 Ill. Reg. 20063, effective December 4, 1990)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT(S)

- 1) The Heading of the Part: The Illinois Library System Act
- 2) Code Citation: 23 Ill. Adm. Code 3030
- 3) Section numbers: 3030.20
3030.105
Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by The Illinois Library System Act (Ill. Rev. Stat. 1989, ch. 81, pars. 111 et seq.)
- 5) Effective Date of Amendment: December 1, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: December 1, 1990
- 9) Notice of Proposal Published in Illinois Register:
14 Ill. Reg. 11764, June 20, 1990
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version:
 1. Modified Section 3030.150(j)(3) to state: Upon receipt of the application and review of it by the Illinois State Library staff, it will be approved for funding within 90 days after submission of the application if the criteria are met, as set forth in this Section and Section 8.4 of the Illinois Library System Act, and the application was completed fully and with accurate information.
 2. In Section 3030.20(e) changed "Library" to "Librarian".
 3. Showed an end set of quotes after the publication in Section 3030.105(j)(2)(A).
 4. Renumbered the subsections in Section 3030.105(j)(2)(D)(1-9) to 3030.105(j)(2)(D)(i-ix).
 5. Changed the punctuation at the end of each subsection from periods to semicolons in Section 3030.105(j)(2)(B), (C), (D)(will), (F) and (G) and included an "and after Section 3030.105(j)(2)(G).
 6. Updated the Authority note to 1989.

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7. In Section 3030.20(e) changed the language to read "his/her".
8. In Section 3030.105(j)(2)(H) added "Illinois" before "Library".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking implements Section 8.4 of the Library Systems Act (Ill. Rev. Stat. 1989, ch. 81, Section 118.4) which establishes a system of grants to school libraries. The rules establish the procedures for applications, and the application contracts.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Philip S. Howe
Counsel to the Secretary
298 Centennial Building
Springfield, Illinois 62706
217/785-3094

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT(S)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3030
THE ILLINOIS LIBRARY SYSTEM ACT

Section	Definitions
3030.10	Forms
3030.15	Administration of the Act: Hearings
3030.20	Establishment of Systems
3030.25	Geographic Boundaries
3030.30	Membership in a Library System
3030.35	Contracting Libraries
3030.40	Accessing Resources and Services
3030.45	Service Standards
3030.50	Service to State Institutions
3030.55	Services to the Physically Disabled (Repealed)
3030.60	Plan of Service for a Cooperative or Multitype Library System
3030.65	Plan of Service for a Public Library System
3030.70	Conversion of a Cooperative Public Library System or a Public Library System to a Multitype Library System
3030.75	Liquidation
3030.80	Merger
3030.85	Finances and Records
3030.90	Governing Board
3030.95	Rules
3030.100	State Grants
3030.105	Revocation of Approval
3030.110	Suspension of a Library from Membership
3030.115	Transfer of Membership
3030.120	Withdrawal of Membership
3030.125	Annual System Reports
3030.130	

AUTHORITY: Implementing and authorized by The Illinois Library System Act (Ill. Rev. Stat. 1989, ch. 81, pars. 111 et seq.)

SOURCE: Rules and Regulations for Library Systems and State Aid adopted November 8, 1965; rules repealed, new rules adopted and codified at 8 Ill. Reg. 16914, effective September 4, 1984; amended at 13 Ill. Reg. 1244, effective January 15, 1989; amended at 14 Ill. Reg. 20066, effective December 1, 1990.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

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Section 3030.20 Administration of the Act: Hearings

- a) The State Librarian shall provide for hearings to reconsider decisions made in the administration of the Act regarding:

- 1) The denial of approval of a library system,
- 2) The revocation of approval of a library system,
- 3) The denial by the State Librarian of a library's application for membership in a library system.
- 4) The suspension of a library from membership in a library system.
- 5) The denial of any state grant.

- b) A library or library system wishing reconsideration of a decision rendered against it shall request a hearing in writing within thirty days of the date of said decision.

- c) To reconsider decisions the State Librarian shall appoint a panel of 5 members, and shall appoint one member as chairperson. The panel shall include:

- 1) One or two members of the Illinois State Library Advisory Committee (ISLAC),
- 2) An executive director of a library system, not a member of ISLAC,
- 3) In the event that the request is from a library system, a representative of another library system,
- 4) In the event that the request is from a library, a person from a library of the same type as the library, but not from the same system. The types of libraries are academic, school, public and special.

- 5) A library trustee, not a member of ISLAC.

- d) Within fifteen days of its appointment, the panel shall notify the library or library system in writing of the date for the hearing which shall not be more than thirty days after the date the State Librarian received the request.

- e) The panel shall forward its recommendation to the State Librarian within three days after the completion of the hearing. Within ten days, the State Librarian shall inform the library or

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library system of his/her final decision. The recommendation of the panel and the decision of the State Librarian shall be based on the requirements of the Act and of this Part.

(Source: Amended at 14 Ill. Reg. 20066, effective Dec. 1, 1990)

Section 3030.105 State Grants

- a) Application for Annual Per Capita and Area Grants shall be made to the State Librarian on or before May 1 of each year and shall consist of the following:

- 1) An annually updated plan of service.
- 2) The system's annual report for the preceding fiscal year.
- 3) The system budget for the current fiscal year, and
- 4) An estimate of receipts and expenditures for the ensuing fiscal year.

- b) Application for Annual Grants to Systems Providing Services to Residents of State Institutions shall be made to the State Librarian on or before May 1 of each year and shall consist of:

- 1) A budget and a description of services to be offered.
- 2) A statement from the chief administrative officer of each institution served that the proposed library services are acceptable.

- c) Application for Annual Grants to no more than six Systems Providing Administrative and Support Services to Libraries and Radio Information Services Serving Physically Disabled Individuals shall be made to the State Librarian on or before May 1 of each year and shall consist of a budget and a description of services to be offered. The State Librarian shall be notified of any change in their budget.

- d) To be eligible for a per capita grant, a public library shall show that it will EITHER MEET OR SHOW PROGRESS TOWARD MEETING THE ILLINOIS LIBRARY STANDARDS, AS MOST RECENTLY ADOPTED BY THE ILLINOIS LIBRARY ASSOCIATION, by raising or improving its performance levels in relation to the standards, when such levels are below the standards, according to objectives, time frames, and priorities which the library shall state in its application for a grant, and which it shall also state are consistent with the terms of the plan of service of the system of which it is a member.

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- e) Application for ANNUAL EQUALIZATION GRANTS and PER CAPITA GRANTS TO PUBLIC LIBRARIES shall be made prior to October 15 of each year.
- f) For a public library to qualify for a per capita grant, it must be a member of a library system and not under suspension. The application shall show that grant funds will be used to meet or make progress in meeting Illinois library standards cited in Subsection (d) above. Any change in the use of funds from that stated in the approved application shall have prior approval of the State Librarian. Failure to spend funds in accord with Section 8.1 of the Act shall result in ineligibility for future grants for a period of one year.
- g) To qualify for ANNUAL GRANTS TO RESEARCH AND REFERENCE CENTERS each center shall contract annually with the State Librarian. The contract will specify by inclusion:
- 1) The terms for apportionment of the grant funding,
 - 2) Services to be performed, and
 - 3) Adherence to the Research and Reference Center Committee's Rules for making their collections available to the residents of the state and the established LONG RANGE cooperative ACQUISITIONS POLICIES TO STRENGTHEN THE EXISTING COLLECTIONS AND TO AVOID UNNECESSARY DUPLICATION.
- h) The Research and Reference Center Committee shall be July 1 of each year file with the State Library for attachment to Research and Reference Center contracts:
- 1) A current copy of the Committee's "Long Range Acquisitions Policy," and
 - 2) A current copy of their "Rules for Accessing Research and Reference Center Collections."
- i) To qualify for an Annual Grant to the Illinois Regional Library for the Blind and Physically Handicapped, the applicant agent shall jointly contract with the Illinois State Library and the Library of Congress National Library Service for the Blind and Physically Handicapped for such purpose. This contract shall be supplemented annually with a contract with the State Library which shall include a long range program and budget in accordance with Section 3030.65 of this Part.
- j) School District Library Grant Program
- 1) Pursuant to Section 8.4 of the Illinois Library System Act (Ill. Rev. Stat. 1989, ch. 81, par. 118.4), there is established by these rules the application procedures for school district library grants.

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- 2) The application for annual school grants shall be made between October 1 and prior to December 1 of each year starting in 1990. It shall be signed by the superintendent of schools for the school district. It shall be submitted to the Illinois State Library. It shall consist of:
- A) A description and verification of the school board's review, as effected in the minutes of a school board meeting, of the school library standards ("Recommended Standards for Educational Library Media Programs in Illinois, adopted in 1986") as most recently adopted by the Illinois Library Association;
 - B) A report on the use of the previous year's grant, if a grant was received, which shall show how said grant was used; to include an evaluation detailing the effect of the program in overall district-wide school library media program improvement and progress towards or compliance with school library media standards;
 - C) A statement on the proposed use of the grant for which application is being made which shall show how grant funds will be used to further the purposes in the Act. The grants may not be used for construction of a new library;
 - D) The following specific information:
 - i) The official name and complete address of the school district;
 - ii) the name of the library system of which the district is a member or to which it has applied for membership;
 - iii) the name or names and type of attendance unit in which the library or libraries are located;
 - iv) the number of students served by the library or libraries;
 - v) the name of the librarian;
 - vi) the number of hours per week the library is open;
 - vii) the number of hours per week the librarian is available in the library as the librarian and percentage such hours are of the librarian's total hours worked;

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viii) the dates of the library's fiscal year, the Illinois legislative district(s) in the library's taxing area, and;

ix) the library's federal employers identification number (FEIN).

E) A statement from the superintendent of the total funds expended for the qualifying library or libraries in the year prior to the year for which funds are applied for, and total funds budgeted for the current school year;

F) Evidence that the fiscal year's grant funds, if received, were encumbered prior to June 30 of that fiscal year and expended prior to September 1 of the calendar year in which the fiscal ended;

G) Certification by the director of the library system of which the school district is a member that the intended use of the grant is in keeping with the terms of the system's plan of service. If the school district is not a member of the library system, the system shall provide a statement that the district has applied for system membership and that the intended use of the grant is in keeping with the terms of the system's plan of service; and

H) Subsequent to approval of an application by the Illinois State Library, the Illinois State Board of Education will acknowledge receipt of evidence that the requirements of Section 8.4(4) and 8.4(5) of the Illinois Library System Act have been met.

3) Upon receipt of the application and review of it by the Illinois State Library staff, it will be approved for funding within 90 days after submission of the application if the criteria are met, as set forth in this Section and Section 8.4 of the Illinois Library System Act, and the application was completed fully and with accurate information.

(Source: Amended at 14 Ill. Reg. 20066, effective Dec. 1, 1990.)

DEPARTMENT OF CORRECTIONS

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: RECORDS OF COMMITTED PERSONS

2) Code Citation: 20 Ill. Adm. Code 107

3) Section Numbers: Emergency Action:
107.145 Add

4) Statutory Authority: Implementing and authorized by Sections 3-2-2 and 3-6-3 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2 and 1003-6-3, as amended by P.A. 86-1373, effective September 10, 1990).

5) Effective Date of Amendment: December 1, 1990

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable.

7) Date Filed in Agency's Principal Office: November 26, 1990

8) Reason for Emergency: Public Act 86-1373, effective September 10, 1990, provides for the award of educational good conduct credits to eligible committed persons and further requires the Department of Corrections to promulgate rules for the administration of educational good conduct credits. This rulemaking is necessary to implement this law.

9) A Complete Description of the Subjects and Issues Involved: A new Section has been added to provide for the award of educational good conduct credits and refers to other emergency rules which provide the procedures for establishing and evaluating educational goals of committed persons and approval of the award of educational good conduct credits.

10) Are there any proposed amendments to this Part pending? No.

11) Statement of Statewide Policy Objectives: Not applicable; this rulemaking does not create or expand any State mandates.

12) Information and questions regarding this amendment shall be directed to:

Name: William H. Craine, Ph.D., Deputy Director
Illinois Department of Corrections
Address: 1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277
Telephone: 217/522-2666

ILLINOIS REGISTER
DEPARTMENT OF CORRECTIONS
NOTICE OF EMERGENCY AMENDMENT

The full text of the emergency amendment begins on the next page:

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER a: ADMINISTRATION AND RULES

PART 107

RECORDS OF COMMITTED PERSONS

SUBPART A: ADMISSION DOCUMENTS

Section	
107.10	Applicability
107.20	Required Admission Documents

SUBPART B: DIMINUTION OF SENTENCE

Section	
107.100	Applicability
107.110	Diminution of Felony Sentences
107.120	Good Time Schedules Applicable to Felony Sentences
107.130	Consecutive Sentences
107.140	Concurrent Sentences
107.145	Educational Good Conduct Credits
EMERGENCY	
107.150	Revocation of Statutory Good Time and Good Conduct Credits
107.160	Restoration of Statutory Good Time and Good Conduct Credits
107.170	Institution Credits (Repealed)
107.180	Misdemeanant Good Time Allowance

SUBPART C: MERITORIOUS GOOD TIME

Section	
107.200	Applicability
107.210	Awarding of Meritorious Good Time

SUBPART D: MAINTENANCE OF RECORDS

Section	
107.300	Applicability
107.310	Access to Records
107.320	Disclosure of Master Record File Material for Youth Committed to the Juvenile Division - Court Agreement
107.330	Release of Clinical Records to Committed Persons and Authorized Attorneys (Adult Division) - Court Agreement
107.340	Release of Clinical Records to Committed Persons and Authorized Attorneys (Community Services Division)

DEPARTMENT OF CORRECTIONS

NOTICE OF EMERGENCY AMENDMENT

SUBPART E: ACCESS AND REVIEW OF CRIMINAL HISTORY RECORD INFORMATION

Section	
107.400	Applicability
107.410	Definition
107.420	Right to Access and Review
107.430	Requests for Access and Review
107.440	Challenge of Record

AUTHORITY: Implementing Sections 3-2-2, 3-3-2, 3-5-1, 3-5-2, 3-6-3, 3-8-1, 3-10-1, 5-4-1, 5-8-6, and 5-8-7 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2, 1003-3-2, 1003-5-1, 1003-5-2, 1003-6-3, 1003-8-1, 1003-10-1, 1005-4-1, 1005-8-6 and 1005-8-7, as amended by P.A. 86-1090, effective July 13, 1990 and P.A. 86-1373, effective September 10, 1990), Sections 2-8, 5-10 and 5-12 of the Juvenile Court Act (Ill. Rev. Stat. 1989, ch. 37, pars. 702-8, 705-10 and 705-12) and Section 2 of the County Jail Good Behavior Allowance Act (Ill. Rev. Stat. 1989, ch. 75, par. 31) and authorized by Section 3-7-1 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, par. 1003-7-1). Subpart D is also implementing two Consent Decrees (Beavers vs. Sietaff, #75 C 317, N.D. Ill., 1977, and Lower vs. Franzen, #78 C 1870, N.D. Ill., 1980).

SOURCE: Adopted at 8 Ill. Reg. 14572, effective August 1, 1984; amended at 10 Ill. Reg. 20497, effective January 1, 1987; amended at 13 Ill. Reg. 6992, effective May 1, 1989; emergency amendment at 14 Ill. Reg. 12273, effective July 17, 1990, for a maximum of 150 days; modified in response to an objection of the Joint Committee on Administrative Rules at 14 Ill. Reg. 15600, not to exceed the 150 day time limit of the original rulemaking; amended at 14 Ill. Reg. 18461, effective November 1, 1990; emergency amendment at 14 Ill. Reg. 20074, effective December 1, 1990, for a maximum of 150 days.

SUBPART B: DIMINUTION OF SENTENCE

Section 107.145 Educational Good Conduct Credits
EMERGENCY

Committed persons who are enrolled in full-time vocational or academic educational programs approved by the Department may be eligible to receive educational good conduct credits in addition to good conduct credits awarded in accordance with this Part. Educational good conduct credits shall be awarded at the rate of .25 days for each day during which educational goals have been achieved in accordance with 20 Ill. Adm. Code 405.

(Source: Emergency rule added at 14 Ill. Reg. 20074, effective December 1, 1990, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

1) The Heading of the Part: RIGHTS AND RESPONSIBILITIES

2) Code Citation: 89 Ill. Adm. Code 102

3) Section Numbers: Emergency Action:

102.70
Amendment
102.81
Amendment

4) Statutory Authority: Sections 11-4, 11-8 and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 11-4, 11-8 and 12-13)

5) Effective Date of Emergency Amendments: December 3, 1990

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable

7) Date Filed in Agency's Principal Office: December 3, 1990

8) Reason for Emergency: These amendments are being made to implement the consent decree in Malone v. Kustra, No. 89 C 7492, U.S. District Court for Northern District of Illinois, Eastern Division, which was entered on August 23, 1990.9) A Complete Description of the Subjects and Issues Involved: As the result of the settlement of Malone v. Kustra, the Department is changing its policies regarding the time period in which a Public Aid client can appeal a notice of reduction or termination of benefits and have the benefits continued unchanged pending a hearing decision on the appeal. Under the former policy, a client had to appeal within 10 days from the date of the notice to have benefits continued unchanged while the appeal was pending. Under the new policy, a client is entitled to unchanged benefits during the appeal process if the appeal is filed on or before the date the reduction or termination will occur. For grant and food stamp cases, the date a reduction or discontinuance will occur is the scheduled mailing date for the affected benefits. For medical assistance only cases, the date is the first day of the calendar month in which the medical assistance is affected, or the next work day if the first calendar day is a Saturday, Sunday or holiday.

10) Are there any proposed amendments pending to this Part? No

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.
- 12) Information and questions regarding these amendments shall be directed to:

Name: Myron Brigman, Staff Attorney
Office of the General Counsel

Address: Illinois Department of Public Aid
Jesse B. Harris Building II
100 South Grand Avenue East, 3rd Flr.
Springfield, Illinois 62762

Telephone: (217) 782-1233

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER a: GENERAL PROVISIONS

PART 102

RIGHTS AND RESPONSIBILITIES

Section	
102.1	Incorporation By Reference
102.10	Rights of Clients
102.20	Nondiscrimination
102.25	Grievance Rights of Clients
102.30	Confidentiality of Case Information
102.35	Case Records
102.40	Freedom of Choice
102.50	Reporting Change of Circumstances
102.60	Referral Requirements
102.63	Reporting Child Abuse/Neglect
102.66	Suitability of Home
102.70	Notice to Client
EMERGENCY	
102.80	Right to Appeal
102.81	Continuation of Assistance Pending Appeal
EMERGENCY	
102.82	Time Limit for Filing an Appeal
102.83	Examining Department Records
102.84	Child Care
102.90	Voluntary Repayment of Assistance
102.100	Excess Assistance (Recodified)
102.110	Recoupment of Overpayments (Recodified)
102.120	Correction of Underpayments
102.200	Recovery of Assistance
102.210	Estate Claims
102.220	Real Property Liens
102.230	Filing and Renewal of Liens
102.240	Foreclosure of Liens
102.250	Release of Liens
102.260	Personal Injury Claims
102.270	Convictions of Fraud - Eligibility
102.280	Single Conviction of Fraud - Administrative Review Board

AUTHORITY: Implementing Article XI and authorized by Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 11-1 et seq. and 12-13)

SOURCE: Filed and effective December 31, 1977; peremptory rule at 2 Ill. Reg. 52, p. 449, effective December 13, 1978; amended at 2 Ill. Reg. 52, p. 462, December 23, 1978; peremptory

NOTICE OF EMERGENCY AMENDMENTS

Section 102.70 Notice to Client (Cont'd.)
EMERGENCY

provision under the authority of which the action is taken.

- 4) A complete statement of the client's right to appeal (see subsection (d) below and Sections 102.80 thru 102.82).

d) Timely Notice

- 1) All notices concerning local office reduction or discontinuance of assistance shall be "timely". They shall be mailed or given at least ten (10) calendar days prior to the date the reduction or discontinuance will occur, and shall inform the client that if the client files an appeal within ten (10) calendar days of the date of the notice, by the date the reduction or discontinuance will occur, his or her assistance will be continued at its previous level, pending the results of the appeal unless the client specifically requests that the assistance benefits not be continued. The notice shall be dated with the date it is mailed or given. (Day one of the ten (10) day period is the day following the date on the notice.)--The date on a notice is the same date the notice is mailed.

- 2) Notices sent concerning reduction or discontinuance of assistance by agency action initiated centrally may be either "timely" or "adequate", as defined by federal regulation.

e) Aid to Families With Dependent Children

- 1) Every recipient who makes a written request for a grant increase or a special authorization shall be sent or given written notice of the disposition of the request within 45 days of the date of the request.
- 2) Every recipient who makes a request for Special Assistance (89 Ill. Adm. Code 116.500) shall be sent or given a written notice of the disposition of the request within 5 working days of the date of the request.

NOTICE OF EMERGENCY AMENDMENTS

amendment at 3 Ill. Reg. 11, p. 39, effective March 1, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; amended at 5 Ill. Reg. 8035, effective July 27, 1981; amended at 5 Ill. Reg. 10775, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 7 Ill. Reg. 8350, effective July 1, 1983; amended at 8 Ill. Reg. 18910, effective September 26, 1984; amended at 9 Ill. Reg. 327, effective December 31, 1984; amended at 9 Ill. Reg. 3730, effective March 13, 1985; amended at 9 Ill. Reg. 6812, effective April 26, 1985; amended at 9 Ill. Reg. 7162, effective May 1, 1985; amended at 9 Ill. Reg. 13091, effective August 16, 1985; amended at 9 Ill. Reg. 14704, effective September 13, 1985; amended at 9 Ill. Reg. 15912, effective October 4, 1985; amended at 10 Ill. Reg. 14795, effective August 29, 1986; amended at 10 Ill. Reg. 19088, effective October 24, 1986; Sections 102.100 and 102.110 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 14067, effective August 10, 1987; amended at 11 Ill. Reg. 18239, effective October 30, 1987; amended at 12 Ill. Reg. 3735, effective February 5, 1988; amended at 13 Ill. Reg. 3940, effective March 10, 1989; amended at 14 Ill. Reg. 13279, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990, for a maximum of 150 days.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE

Section 102.70 Notice to Client
EMERGENCY

- a) Every applicant for assistance shall be sent or given a written notice of disposition of the application.
- b) Every recipient for assistance shall be sent or given a written notice whenever assistance is reduced or discontinued.
- c) Notices denying, reducing, or discontinuing assistance shall contain the following information:
 - 1) A clear statement of the action being taken.
 - 2) A clear statement of the reason for the action.
 - 3) A reference to the statute, rule, or policy

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 102.70 Notice to Client (Cont'd.)
EMERGENCY

- 3) Every recipient who makes a request for Emergency Assistance (89 Ill. Adm. Code 116.510) shall be sent or given written notice of the disposition sent or given within 45 days of the date of the request.
- 4) Every recipient who makes a request for Hardship Assistance (89 Ill. Adm. Code 116.520) shall be sent or given written notice of the disposition of the request within 45 days of the date of the request.

f) Approval of General Assistance as a result of cancellation of AFDC or AABD or reduction of AFDC (Applicable Only in City of Chicago)

- 1) A notice of intended cancellation or reduction of benefits is sent to an AFDC or AABD recipient, in the City of Chicago, whose assistance is discontinued or a person deleted from the assistance unit (AFDC only) for one of the following reasons:

A) AABD

no longer blind, disabled.

B) AFDC

- i) no longer an eligible child in the home,
- ii) no longer incapacitated,
- iii) absent parent returned home,
- iv) no longer an unemployed parent,
- v) stepparent's liability sufficient to meet need,
- vi) stepparent failed to verify income, or
- vii) parent participating in a strike.

- 2) If a recipient from one of the programs listed in subsection (f)(1) applies for General Assistance (GA) within thirty (30) days of the notice of cancellation or reduction of benefits and if that

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 102.70 Notice to Client (Cont'd.)
EMERGENCY

recipient is determined to be eligible for GA such benefits shall be authorized with no gap in assistance (see also 89 Ill. Adm. Code 110.30).

g) Food Stamp households shall be notified

- 1) If there is no change in benefits following submission of a change report form.
- 2) If food stamp benefits are being reduced or discontinued, the following additional information shall be included on the notice:

A) the telephone number of the local Public Aid office;

B) a statement indicating the household's liability for benefits received while waiting for a fair hearing decision, if the decision is adverse to the household; and

C) a statement indicating the general availability of outside individuals or organizations providing free legal representation and the telephone number of those individuals or organizations.

- 3) A notice of approval shall be sent to eligible households by the 30th day following the date of application. If the household is found not eligible to participate, the notice of denial shall be sent by the 30th day following the date of application.

- 4) If the local office cannot act on an application by the 30th day because the case file is incomplete due to a household's delay, a notice of denial shall be sent on the 30th day. However, the household has an additional thirty days to complete the application. If the delay is caused by the local office, a notice of pending status shall be sent to the household by the 30th day.

(Source: Emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 26, 1990 through November 30, 1990, and have been scheduled for review by the Committee at its January, 1991 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its January meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JCAR
1/10/91	Department of Nuclear Safety, Fees for Radioactive Material Licenses (32 Ill. Adm. Code 331)	9/28/90 14 Ill. Reg. 15672	January, 1991
1/10/91	Department of Commerce and Community Affairs, Illinois Promotion Act (14 Ill. Adm. Code 510)	8/17/90 14 Ill. Reg. 13072	January, 1991
1/11/91	Illinois Racing Board, Twin Trifecta Exchange (11 Ill. Adm. Code 440)	6/8/90 14 Ill. Reg. 8975	January, 1991
1/11/91	Illinois Racing Board, Entries, Subscriptions and Declarations (11 Ill. Adm. Code 1413)	8/3/90 14 Ill. Reg. 12385	January, 1991
1/11/91	Illinois Racing Board, Pari-Mutuels (11 Ill. Adm. Code 405)	8/3/90 14 Ill. Reg. 12389	January, 1991
1/11/91	Illinois Racing Board, Totalizator Operations (11 Ill. Adm. Code 433)	8/3/90 14 Ill. Reg. 12393	January, 1991
1/11/91	Illinois Racing Board, Entries and Declarations (11 Ill. Adm. Code 1312)	9/14/90 14 Ill. Reg. 14750	January, 1991

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Continuation of Assistance Pending Appeal

Section 102.81
EMERGENCY

- a) If an appeal is initiated by the date a reduction or discontinuance will occur within ten (10) calendar days of the date of the timely notice, assistance shall be continued at the level in effect prior to the proposed action, pending the results of the fair hearing process, unless the individual specifically request that his/her assistance benefits not be continued. If date the reduction or discontinuance will occur the 10th calendar day is a Saturday, Sunday or a holiday, the client has until the end of the next work day to file his/her appeal.
- b) If a food stamp household files an appeal as the result of normal expiration of the certification period, or as a result of action taken on the initial or subsequent application, benefits shall not be continued at the previous level.
- c) If a food stamp household timely appeals a suspension from program participation for failure to file a Monthly Report within ten (10) days from the date of notice of adverse action (See 89 Ill. Adm. Code 121.91(i)) and the household admits that it did not submit the Monthly Report, the household is not entitled to continuation of benefits.
- d) If an individual appeals the Department's decision to initiate a protective payment plan within ten (10) calendar days of the date of the timely notice, the protective payment plan shall not be initiated pending the results of the fair hearing process.

(Source: Emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSECOND NOTICES RECEIVED
(page 2)

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JCAR
1/11/91	Pollution Control Board, Organic Material Emission Standards and Limitations (35 Ill. Adm. Code 215)	8/10/90 14 Ill. Reg. 12701	January, 1991
1/14/91	Department of Public Aid, Aid to Families with Dependent Children (89 Ill. Adm. Code 112)	10/12/90 14 Ill. Reg. 16768	January, 1991
1/14/91	Department of Conservation, North Point Marina (17 Ill. Adm. Code 220)	10/5/90 14 Ill. Reg. 16182	January, 1991
1/14/91	Department of Central Management Services, Pay Plan (80 Ill. Adm. Code 310)	9/14/90 14 Ill. Reg. 14657	January, 1991
1/14/91	Department of Central Management Services, Pay Plan (80 Ill. Adm. Code 310)	9/21/90 14 Ill. Reg. 15186	January, 1991

PROCLAMATION

90-536

ELECTION RESULTS - STATE OFFICERS

Whereas, On the 6th day of November, 1990, an election was held in the State of Illinois,

Whereas, In pursuance of law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this 26th day of November, 1990, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

UNITED STATES SENATOR
Paul Simon

GOVERNOR
Jim Edgar

LIEUTENANT GOVERNOR
Bob Kustra

ATTORNEY GENERAL
Roland W. Burris

SECRETARY OF STATE
George H. Ryan

COMPTROLLER
Dawn Clark Netsch

TREASURER
Patrick Quinn

TRUSTEES OF THE UNIVERSITY OF ILLINOIS

Gloria Jackson Bacon
Susan Loving Gravenhorst
Tom Lamont

Now, Therefore, I, James R. Thompson, Governor of the State of Illinois, in conformity to statute in such cases made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

Issued by the Governor November 26, 1990.

Filed with the Secretary of State November 26, 1990.

90-537

ELECTION RESULTS - CONGRESS - GENERAL ASSEMBLY

Whereas, on the 6th day of November, 1990, an election was held in the State of Illinois,
Whereas, In pursuance of law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 26th day of November, 1990, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

REPRESENTATIVES TO REPRESENT THE PEOPLE OF THE STATE OF ILLINOIS IN THE 102ND CONGRESS OF THE UNITED STATES

FIRST CONGRESSIONAL DISTRICT

Charles A. Hayes

SECOND CONGRESSIONAL DISTRICT

Gus Savage

THIRD CONGRESSIONAL DISTRICT

Martin A. Russo

FOURTH CONGRESSIONAL DISTRICT

George E. Sangmeister

FIFTH CONGRESSIONAL DISTRICT

William O. Lipinski

SIXTH CONGRESSIONAL DISTRICT

Henry J. Hyde

SEVENTH CONGRESSIONAL DISTRICT

Cardiss Collins

EIGHTH CONGRESSIONAL DISTRICT

Dan Rostenkowski

NINTH CONGRESSIONAL DISTRICT

Sidney R. Yates

TENTH CONGRESSIONAL DISTRICT

John E. Porter

ELEVENTH CONGRESSIONAL DISTRICT

Frank Annunzio

TWELFTH CONGRESSIONAL DISTRICT

Philip M. Crane

THIRTEENTH CONGRESSIONAL DISTRICT

Harris W. Fawell

FOURTEENTH CONGRESSIONAL DISTRICT

J. Dennis Hastert

FIFTEENTH CONGRESSIONAL DISTRICT

Edward R. Madigan

SIXTEENTH CONGRESSIONAL DISTRICT

John W. Cox, Jr.

SEVENTEENTH CONGRESSIONAL DISTRICT

Lane A. Evans

EIGHTEENTH CONGRESSIONAL DISTRICT

Robert H. Michel

NINETEENTH CONGRESSIONAL DISTRICT

Terry L. Bruce

TWENTIETH CONGRESSIONAL DISTRICT

Richard J. Durbin

TWENTY-FIRST CONGRESSIONAL DISTRICT

Jerry F. Costello

TWENTY-SECOND CONGRESSIONAL DISTRICT

Glenn Poshard

STATE SENATORS TO REPRESENT THE PEOPLE OF THE STATE OF ILLINOIS IN THE 87TH GENERAL ASSEMBLY OF THE STATE

SECOND LEGISLATIVE DISTRICT

Arthur L. Berman

FIFTH LEGISLATIVE DISTRICT

Miguel Del Valle

EIGHTH LEGISLATIVE DISTRICT

Philip J. Rock

ELEVENTH LEGISLATIVE DISTRICT

John P. Daley

FOURTEENTH LEGISLATIVE DISTRICT

Jeremiah E. Joyce

SEVENTEENTH LEGISLATIVE DISTRICT

Emil Jones, Jr.

TWENTIETH LEGISLATIVE DISTRICT

Beverly J. Fawell

TWENTY-THIRD LEGISLATIVE DISTRICT
James "Pate" Philip

TWENTY-SIXTH LEGISLATIVE DISTRICT
Greg Zito

TWENTY-NINTH LEGISLATIVE DISTRICT
Roger A. Keats

THIRTY-SECOND LEGISLATIVE DISTRICT
Jack Schaffer

THIRTY-FIFTH LEGISLATIVE DISTRICT
Harlan Rigney

THIRTY-EIGHTH LEGISLATIVE DISTRICT
Patrick D. Welch

FORTY-FIRST LEGISLATIVE DISTRICT
George Ray Hudson

FORTY-FOURTH LEGISLATIVE DISTRICT
John W. Maitland, Jr.

FORTY-SEVENTH LEGISLATIVE DISTRICT
Carl E. Hawkinson

FIFTIETH LEGISLATIVE DISTRICT
John A. Davidson

FIFTY-THIRD LEGISLATIVE DISTRICT
Harry "Babe" Woodyard

FIFTY-SIXTH LEGISLATIVE DISTRICT
Sam M. Vadalabene

FIFTY-NINTH LEGISLATIVE DISTRICT
James F. (Jim) Rea

REPRESENTATIVES TO REPRESENT THE PEOPLE OF THE STATE OF
ILLINOIS IN THE 87TH GENERAL ASSEMBLY OF THE STATE

FIRST REPRESENTATIVE DISTRICT
Louis I. Lang

SECOND REPRESENTATIVE DISTRICT
William J. Laurino

THIRD REPRESENTATIVE DISTRICT
Lee Preston

FOURTH REPRESENTATIVE DISTRICT
Janice D. (Jan) Schakowsky

FIFTH REPRESENTATIVE DISTRICT
Ellis B. Levin

SIXTH REPRESENTATIVE DISTRICT
Bruce A. Farley

SEVENTH REPRESENTATIVE DISTRICT
John J. Cullerton

EIGHTH REPRESENTATIVE DISTRICT
Jesse C. White, Jr.

NINTH REPRESENTATIVE DISTRICT
Miguel A. Santiago

TENTH REPRESENTATIVE DISTRICT
Myron J. Kulas

ELEVENTH REPRESENTATIVE DISTRICT
Robert J. Bugielski

TWELFTH REPRESENTATIVE DISTRICT
Alfred G. Ronan

THIRTEENTH REPRESENTATIVE DISTRICT
Ralph C. Capparelli

FOURTEENTH REPRESENTATIVE DISTRICT
Roger P. McAuliffe

FIFTEENTH REPRESENTATIVE DISTRICT
Robert Leflore, Jr.

SIXTEENTH REPRESENTATIVE DISTRICT
James A. DeLeo

SEVENTEENTH REPRESENTATIVE DISTRICT
Anthony L. Young

EIGHTEENTH REPRESENTATIVE DISTRICT
Arthur L. Turner

NINETEENTH REPRESENTATIVE DISTRICT
Shirley M. Jones

TWENTIETH REPRESENTATIVE DISTRICT
Ben Martinez

TWENTY-FIRST REPRESENTATIVE DISTRICT

ILLINOIS REGISTER

Pamela A. Munizzi
 TWENTY-SECOND REPRESENTATIVE DISTRICT
 Daniel J. Burke
 TWENTY-THIRD REPRESENTATIVE DISTRICT
 Lovana S. (Lou) Jones
 TWENTY-FOURTH REPRESENTATIVE DISTRICT
 Paul L. Williams
 TWENTY-FIFTH REPRESENTATIVE DISTRICT
 Donne E. Trotter
 TWENTY-SIXTH REPRESENTATIVE DISTRICT
 Barbara Flynn Currie
 TWENTY-SEVENTH REPRESENTATIVE DISTRICT
 John J. McNamara
 TWENTY-EIGHTH REPRESENTATIVE DISTRICT
 James F. Keane
 TWENTY-NINTH REPRESENTATIVE DISTRICT
 Andrew J. McGann
 THIRTIETH REPRESENTATIVE DISTRICT
 Michael J. Madigan
 THIRTY-FIRST REPRESENTATIVE DISTRICT
 Mary E. Flowers
 THIRTY-SECOND REPRESENTATIVE DISTRICT
 Charles G. Morrow, III
 THIRTY-THIRD REPRESENTATIVE DISTRICT
 Nelson Rice, Sr.
 THIRTY-FOURTH REPRESENTATIVE DISTRICT
 William Shaw
 THIRTY-FIFTH REPRESENTATIVE DISTRICT
 Clem Balanoff
 THIRTY-SIXTH REPRESENTATIVE DISTRICT
 Monique D. Davis
 THIRTY-SEVENTH REPRESENTATIVE DISTRICT
 Loleta A. Didrickson
 THIRTY-EIGHTH REPRESENTATIVE DISTRICT
 Jane M. Barnes

ILLINOIS REGISTER

THIRTY-NINTH REPRESENTATIVE DISTRICT
 Vincent A. Persico
 FORTIETH REPRESENTATIVE DISTRICT
 Dan Cronin
 FORTY-FIRST REPRESENTATIVE DISTRICT
 May Lou Cowlishaw
 FORTY-SECOND REPRESENTATIVE DISTRICT
 Suzanne L. "Sue" Deuchler
 FORTY-THIRD REPRESENTATIVE DISTRICT
 Jack L. Kubik
 FORTY-FOURTH REPRESENTATIVE DISTRICT
 James R. Stange
 FORTY-FIFTH REPRESENTATIVE DISTRICT
 Kathleen L. "Kay" Wojcik
 FORTY-SIXTH REPRESENTATIVE DISTRICT
 Lee A. Daniels
 FORTY-SEVENTH REPRESENTATIVE DISTRICT
 David B. McAfee
 FORTY-EIGHTH REPRESENTATIVE DISTRICT
 James W. Phelan
 FORTY-NINTH REPRESENTATIVE DISTRICT
 Terry R. Parke
 FIFTIETH REPRESENTATIVE DISTRICT
 Donald N. Hensel
 FIFTY-FIRST REPRESENTATIVE DISTRICT
 Ted E. Leverenz
 FIFTY-SECOND REPRESENTATIVE DISTRICT
 Geoffrey S. Obrzut
 FIFTY-THIRD REPRESENTATIVE DISTRICT
 David Harris
 FIFTY-FOURTH REPRESENTATIVE DISTRICT
 Bernard E. Pedersen
 FIFTY-FIFTH REPRESENTATIVE DISTRICT
 Penny Pullen

FIFTY-SIXTH REPRESENTATIVE DISTRICT
Jeffrey M. Schoenberg

FIFTY-SEVENTH REPRESENTATIVE DISTRICT
Margaret R. Parcellis

FIFTH-EIGHTH REPRESENTATIVE DISTRICT
Grace Mary Stern

FIFTY-NINTH REPRESENTATIVE DISTRICT
Virginia Fiester Frederick

SIXTIETH REPRESENTATIVE DISTRICT
William E. Peterson

SIXTY-FIRST REPRESENTATIVE DISTRICT
John S. Matijevich

SIXTY-SECOND REPRESENTATIVE DISTRICT
Robert W. Churchill

SIXTY-THIRD REPRESENTATIVE DISTRICT
Dick Klemm

SIXTY-FOURTH REPRESENTATIVE DISTRICT
Ronald A. Wait

SIXTY-FIFTH REPRESENTATIVE DISTRICT
DeLoris Doederlein

SIXTY-SIXTH REPRESENTATIVE DISTRICT
James M. Kirkland

SIXTY-SEVENTH REPRESENTATIVE DISTRICT
Michael V. Rotello

SIXTY-EIGHTH REPRESENTATIVE DISTRICT
E.J. "Zeke" Giorgi

SIXTY-NINTH REPRESENTATIVE DISTRICT
Richard T. "Dick" Mulcahey

SEVENTIETH REPRESENTATIVE DISTRICT
Myron J. Olson

SEVENTY-FIRST REPRESENTATIVE DISTRICT
Joel D. Brunsvold

SEVENTY-SECOND REPRESENTATIVE DISTRICT
M. "Bob" DeJaegher

SEVENTY-THIRD REPRESENTATIVE DISTRICT

Todd Sieben

SEVENTY-FOURTH REPRESENTATIVE DISTRICT
Richard A. Mautino

SEVENTY-FIFTH REPRESENTATIVE DISTRICT
Tom P. Walsh

SEVENTY-SIXTH REPRESENTATIVE DISTRICT
J. Bradley Burzynski

SEVENTY-SEVENTH REPRESENTATIVE DISTRICT
Frank Giglio

SEVENTY-EIGHTH REPRESENTATIVE DISTRICT
Terry A. Steczo

SEVENTY-NINTH REPRESENTATIVE DISTRICT
Robert J. Piel

EIGHTIETH REPRESENTATIVE DISTRICT
Robert P. Regan

EIGHTY-FIRST REPRESENTATIVE DISTRICT
Thomas J. McCracken, Jr.

EIGHTY-SECOND REPRESENTATIVE DISTRICT
Edward Petka

EIGHTY-THIRD REPRESENTATIVE DISTRICT
John C. (Jack) McGuire

EIGHTY-FOURTH REPRESENTATIVE DISTRICT
Larry Wennlund

EIGHTY-FIFTH REPRESENTATIVE DISTRICT
Gerald C. (Jerry) Weller

EIGHTY-SIXTH REPRESENTATIVE DISTRICT
John "Phil" Novak

EIGHTY-SEVENTH REPRESENTATIVE DISTRICT
Thomas W. Ewing

EIGHTY-EIGHTH REPRESENTATIVE DISTRICT
Gordon L. Ropp

EIGHTY-NINTH REPRESENTATIVE DISTRICT
Jay Ackerman

NINETIETH REPRESENTATIVE DISTRICT
Robert F. Olson

ILLINOIS REGISTER

NINETY-FIRST REPRESENTATIVE DISTRICT
Thomas J. Homer

NINETY-SECOND REPRESENTATIVE DISTRICT
Donald L. Saltzman

NINETY-THIRD REPRESENTATIVE DISTRICT
David R. Leitch

NINETY-FOURTH REPRESENTATIVE DISTRICT
David Hultgren

NINETY-FIFTH REPRESENTATIVE DISTRICT
Bill Edley

NINETY-SIXTH REPRESENTATIVE DISTRICT
Art Tenhouse

NINETY-SEVENTH REPRESENTATIVE DISTRICT
Tom Ryder

NINETY-EIGHTH REPRESENTATIVE DISTRICT
Gary Hannig

NINETY-NINTH REPRESENTATIVE DISTRICT
Michael Curran

ONE HUNDREDTH REPRESENTATIVE DISTRICT
Karen Hasara

ONE HUNDRED AND FIRST REPRESENTATIVE DISTRICT
John F. Dunn

ONE HUNDRED AND SECOND REPRESENTATIVE DISTRICT
N. Duane Noland

ONE HUNDRED AND THIRD REPRESENTATIVE DISTRICT
Helen F. Satterthwaite

ONE HUNDRED AND FOURTH REPRESENTATIVE DISTRICT
Timothy V. (Tim) Johnson

ONE HUNDRED AND FIFTH REPRESENTATIVE DISTRICT
William B. Black

ONE HUNDRED AND SIXTH REPRESENTATIVE DISTRICT
Michael "Mike" Weaver

ONE HUNDRED AND SEVENTH REPRESENTATIVE DISTRICT
Charles A. "Chuck" Hartke

ILLINOIS REGISTER

ONE HUNDRED AND EIGHTH REPRESENTATIVE DISTRICT
Larry W. Hicks

ONE HUNDRED AND NINTH REPRESENTATIVE DISTRICT
Kurt M. Granberg

ONE HUNDRED AND TENTH REPRESENTATIVE DISTRICT
Jay C. Hoffman

ONE HUNDRED AND ELEVENTH REPRESENTATIVE DISTRICT
Sam W. Wolf

ONE HUNDRED AND TWELFTH REPRESENTATIVE DISTRICT
Jim McPike

ONE HUNDRED AND THIRTEENTH REPRESENTATIVE DISTRICT
Wyvetter H. Younge

ONE HUNDRED AND FOURTEENTH REPRESENTATIVE DISTRICT
Monroe L. Flinn

ONE HUNDRED AND FIFTEENTH REPRESENTATIVE DISTRICT
Terry W. Deering

ONE HUNDRED AND SIXTEENTH REPRESENTATIVE DISTRICT
Bruce Richmond

ONE HUNDRED AND SEVENTEENTH REPRESENTATIVE DISTRICT
Larry D. Woolard

ONE HUNDRED AND EIGHTEENTH REPRESENTATIVE DISTRICT
David D. Phelps

Now, Therefore, I, James R. Thompson, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

Issued by the Governor November 26, 1990.

Filed with the Secretary of State November 26, 1990.

90-538

ELECTION RESULTS - JUDICIAL RETENTION

Whereas, On the 6th day of November, 1990, an election was held in the State of Illinois,
Whereas, In pursuance of law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this 26th day of November, 1990, canvass the same, and as a result of such canvass, did declare retained the following named persons to the following named

offices:

RETENTION

JUDGE OF THE APPELLATE COURT

1st JUDICIAL DISTRICT
Daniel J. McNamara
*William Sylvester White

2nd JUDICIAL DISTRICT
Philip G. Reinhard
George W. Unverzagt

3rd JUDICIAL DISTRICT
James D. Heiple

5th JUDICIAL DISTRICT
Moses W. Harrison
Thomas M. Welch

JUDGE OF THE CIRCUIT COURT
FIRST JUDICIAL CIRCUIT

George Oros
Michael J. Henshaw
James R. "Jim" Williamson
Stephen L. Spomer

JUDGE OF THE CIRCUIT COURT
SECOND JUDICIAL CIRCUIT

Don A. Foster
Philip B. Benefiel
Loren P. (Larry) Lewis
David L. Underwood
Terrence J. Hopkins

JUDGE OF THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT

Arthur G. Henken
William R. Todd
Rolland F. Tipsword
Michael R. Weber

JUDGE OF THE CIRCUIT COURT
FIFTH JUDICIAL CIRCUIT

Joseph R. Spitz

JUDGE OF THE CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

Frank W. Lincoln

JUDGE OF THE CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT

Richard J. Cadagin
Raymond L. Terrell

JUDGE OF THE CIRCUIT COURT
EIGHTH JUDICIAL CIRCUIT

Fred W. Reither
Lyle E. Lipe
Robert L. Welch
Dennis K. Cashman
Robert W. Cook

JUDGE OF THE CIRCUIT COURT
NINTH JUDICIAL CIRCUIT

Scott I. Klukos
Daniel J. Roberts

JUDGE OF THE CIRCUIT COURT
TENTH JUDICIAL CIRCUIT

Donald C. Courson
Robert J. Cashen

JUDGE OF THE CIRCUIT COURT
TWELFTH JUDICIAL CIRCUIT

Angelo F. Pistilli
Herman S. Haase

JUDGE OF THE CIRCUIT COURT
FOURTEENTH JUDICIAL CIRCUIT

Robert W. Castendyck
Joseph Beatty

JUDGE OF THE CIRCUIT COURT
FIFTEENTH JUDICIAL CIRCUIT

John W. Rapp, Jr.
Francis X. Mahoney

JUDGE OF THE CIRCUIT COURT
SIXTEENTH JUDICIAL CIRCUIT

Patrick J. Dixon

JUDGE OF THE CIRCUIT COURT
EIGHTEENTH JUDICIAL CIRCUIT

John S. Teschner
Carl F. J. Henninger

JUDGE OF THE CIRCUIT COURT
NINETEENTH JUDICIAL CIRCUIT

Henry L. Cowlin
Bernard E. Drew, Jr.

* - SUBJECT TO LITIGATION
(See letter following Proclamation 90-538.)

Fred A. Geiger
Charles F. Scott
Michael J. Sullivan

JUDGE OF THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
Stephen M. Kernan
William B. Starnes
Dennis J. Jacobsen

JUDGE OF THE CIRCUIT COURT
TWENTY-FIRST JUDICIAL CIRCUIT
Wayne P. Dyer
Robert L. Dannehl

JUDGE OF THE CIRCUIT COURT
COOK COUNTY JUDICIAL CIRCUIT
Walter J. Kowalski
Harold W. Sullivan
Franklin I. Kral
James E. Murphy
David Cerda
James M. Bailey
Walter B. Bieschke
John M. Breen, Jr.
Robert E. Cusack
Myron T. Gomberg
Anthony S. Montellione
Peter Bakakos
Edwin M. Berman
Anthony John Bosco

RETENTION

JUDGE OF THE CIRCUIT COURT
COOK COUNTY JUDICIAL CIRCUIT
Kenneth L. Gillis
Francis W. Glowacki
Leonard R. Grazian
James J. Heyda
E.C. Johnson
Richard H. Jorzak
Donald P. O'Connell
James E. Sullivan
Willie Whiting
James A. Zafiratos
Frank M. Siracusa
Rosemary D. LaPorta
John N. Hourihane
Glynn J. Elliott, Jr.
Wayne R. Andersen
Robert V. Boharic

Henry A. Budzinski
Robert D. Ericsson
Thomas E. Flanagan
Michael Jordan
Daniel J. Kelley
Herman Knell
Leonard L. Levin
Daniel J. Lynch
Carl McCormick
William P. Prendergast
Dean J. Sodaro
Michael P. Toomin

Now, Therefore, I, James R. Thompson, Governor of the State of Illinois, in conformity to statutes in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

Issued by the Governor November 26, 1990.
Filed with the Secretary of State November 26, 1990.

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

November 28, 1990

The Honorable James R. Thompson, Governor
Room 207, Capitol Building
Springfield, IL 62706

Dear Governor Thompson:

For your information, the Circuit Court of Cook County has issued its decision in the case of John P. Tully v. State of Illinois, et al., 90 CO 290. William Sylvester White is proclaimed retained in office as Justice of the Illinois Appellate Court, First District, and the proclamation that John P. Tully was elected to fill the seat of William Sylvester White is withdrawn.

Sincerely,

KELVIN HUDSON
Associate Director

90-539

ELECTION RESULTS - JUDICIAL ADVERSARY

Whereas, On the 6th day of November, 1990, an election was held in the State of Illinois,

Whereas, In pursuance of law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 26th day of November, 1990, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

SUPREME COURT JUDGES

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE SEYMOUR SIMON)
Charles E. Freeman

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE DANIEL P. WARD)
Michael A. Bilandic

THIRD JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE HOWARD C. RYAN)
James E. Heiple

APPELLATE COURT JUDGES

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE R. EUGENE PINCHAM)
Joseph Gordon

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE WILLIAM R. QUINLAN)
Thomas R. Rakowski

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE JOHN J. STAMOS)
Edward J. Egan

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE JOHN J. SULLIVAN)
Jill Kathleen McNulty

FIRST JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE WILLIAM S. WHITE)
*John P. Tully

SECOND JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE WILLIAM V. HOPF)
John J. Bowman

SECOND JUDICIAL DISTRICT

(TO FILL THE VACANCY OF THE HONORABLE GEORGE W. LINDBERG)
John L. Nickels

* - SUBJECT TO LITIGATION

(See letter following Proclamation 90-539.)

THIRD JUDICIAL DISTRICT
(TO FILL ADDITIONAL JUDGESHIP A)
Kent Slater

THIRD JUDICIAL DISTRICT
(TO FILL ADDITIONAL JUDGESHIP B)
Michael P. McCuskey

JUDGES OF THE CIRCUIT COURT

COOK COUNTY JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE ARTHUR J. CIESLIK)
Margaret Stanton McBride

COOK COUNTY JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE RICHARD J. FITZGERALD)
Themis Karnezis

COOK COUNTY JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE JACQUES F. HEILINGOETTER)
Richard J. Elrod

COOK COUNTY JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE FRANK R. PETRONE)
Philip L. Bronstein

COOK COUNTY JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE RICHARD L. SAMUELS)
Thomas P. Durkin

COOK COUNTY JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE ADAM N. STILLO)
James Patrick Flannery

COOK COUNTY JUDICIAL CIRCUIT
(INSIDE THE CITY OF CHICAGO)
(TO FILL THE VACANCY OF THE HONORABLE ROGER J. KILEY, JR.)
*James H. Williams

COOK COUNTY JUDICIAL CIRCUIT
(INSIDE THE CITY OF CHICAGO)
(TO FILL THE VACANCY OF THE HONORABLE BLANCHE M. MANNING)
Judy I. Mitchell-Davis

COOK COUNTY JUDICIAL CIRCUIT
(INSIDE THE CITY OF CHICAGO)
(TO FILL THE VACANCY OF THE HONORABLE JOHN J. McDONNELL)
Michael J. Gallagher

* - SUBJECT TO LITIGATION

(See letter following Proclamation 90-539.)

COOK COUNTY JUDICIAL CIRCUIT
(OUTSIDE THE CITY OF CHICAGO)

(TO FILL THE VACANCY OF THE HONORABLE GEORGE M. MAROVICH)
Bernard Carey

COOK COUNTY JUDICIAL CIRCUIT
(OUTSIDE THE CITY OF CHICAGO)

(TO FILL THE VACANCY OF THE HONORABLE DEAN M. TRAFELET)
Loretta C. Douglas

JUDGES OF THE CIRCUIT COURT

FIRST JUDICIAL CIRCUIT

(TO FILL THE VACANCY OF THE HONORABLE ROBERT H. HOWERTON)
Paul Murphy

THIRD JUDICIAL CIRCUIT

(TO FILL THE VACANCY OF THE HONORABLE PHILIP J. RARICK)
Edward Ferguson

THIRD JUDICIAL CIRCUIT

MADISON COUNTY
(TO FILL THE VACANCY OF THE HONORABLE HORACE L. CALVO)
Nicholas G. Byron

THIRD JUDICIAL CIRCUIT

MADISON COUNTY
(TO FILL THE VACANCY OF THE HONORABLE CHARLES W. CHAPMAN)
Phillip J. Kardis

FOURTH JUDICIAL CIRCUIT

EFFINGHAM COUNTY
(TO FILL THE VACANCY OF THE HONORABLE DENNIS L. BERKBIGLER)
Steven P. Seymour

FIFTH JUDICIAL CIRCUIT

CLARK COUNTY
(TO FILL THE VACANCY OF THE HONORABLE ZOLLIE O. ARBOGAST, JR.)
Tracy Resch

FIFTH JUDICIAL CIRCUIT

COLES COUNTY
(TO FILL THE VACANCY OF THE HONORABLE WILLIAM J. SUNDERMAN)
Ashton Waller

FIFTH JUDICIAL CIRCUIT

CUMBERLAND COUNTY
(TO FILL THE VACANCY OF THE HONORABLE JAMES R. WATSON)
Robert B. Cochonour

SIXTH JUDICIAL CIRCUIT

CHAMPAIGN COUNTY

(TO FILL THE VACANCY OF THE HONORABLE CREED D. TUCKER)
John G. Townsend

SEVENTH JUDICIAL CIRCUIT

(TO FILL THE VACANCY OF THE HONORABLE JOHN W. RUSSELL)
Thomas P. Carmody

SEVENTH JUDICIAL CIRCUIT

(TO FILL ADDITIONAL JUDGESHIP)
Sue E. Myerscough

SEVENTH JUDICIAL CIRCUIT

GREENE COUNTY
(TO FILL THE VACANCY OF THE HONORABLE THOMAS G. ROADY, JR.)
James W. Day

SEVENTH JUDICIAL CIRCUIT

JERSEY COUNTY
(TO FILL THE VACANCY OF THE HONORABLE CLAUDE J. DAVIS)
Thomas G. Russell

SEVENTH JUDICIAL CIRCUIT

MORGAN COUNTY
(TO FILL THE VACANCY OF THE HONORABLE GORDON D. SEATOR)
J. David Bone

SEVENTH JUDICIAL CIRCUIT

SCOTT COUNTY
(TO FILL THE VACANCY OF THE HONORABLE RICHARD E. MANN)
Ronald F. Robinson

EIGHTH JUDICIAL CIRCUIT

(TO FILL THE VACANCY OF THE HONORABLE EDWARD B. DITTMAYER)
Mark A. Schuerling

EIGHTH JUDICIAL CIRCUIT

PIKE COUNTY
(TO FILL THE VACANCY OF THE HONORABLE CECIL J. BURROWS)
Michael R. Roseberry

TENTH JUDICIAL CIRCUIT

PEORIA COUNTY
(TO FILL THE VACANCY OF THE HONORABLE RICHARD E. EAGLETON)
Richard E. Grawey

TENTH JUDICIAL CIRCUIT

PUTNAM COUNTY
(TO FILL THE VACANCY OF THE HONORABLE JAMES M. BUMGARDNER)
Scott A. Shore

THIRTEENTH JUDICIAL CIRCUIT

GRUNDY COUNTY
(TO FILL THE VACANCY OF THE HONORABLE ROBERT G. WREN)
Richard R. Wilder

FOURTEENTH JUDICIAL CIRCUIT
WHITESIDE COUNTY
(TO FILL THE VACANCY OF THE HONORABLE L. E. ELLISON)
Dan A. Dunagan

FIFTEENTH JUDICIAL CIRCUIT
JODAVIESS COUNTY
(TO FILL THE VACANCY OF THE HONORABLE HAROLD D. NAGEL)
William A. Kelly

SIXTEENTH JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE MARVIN D. DUNN)
Michael J. Colwell

SIXTEENTH JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE JOSEPH M. MCCARTHY)
Gene Nottolini

SIXTEENTH JUDICIAL CIRCUIT
DEKALB COUNTY
(TO FILL THE VACANCY OF THE HONORABLE REX F. MEILINGER)
John W. Countryman

SIXTEENTH JUDICIAL CIRCUIT
DEKALB COUNTY
(TO FILL ADDITIONAL JUDGESHIP)
Douglas R. Engel

SIXTEENTH JUDICIAL CIRCUIT
KENDALL COUNTY
(TO FILL ADDITIONAL JUDGESHIP)
Grant S. Wegner

SEVENTEENTH JUDICIAL CIRCUIT
WINNEBAGO COUNTY
(TO FILL THE VACANCY OF THE HONORABLE JOHN C. LAYNG)
Ronald L. Pirrello

EIGHTEENTH JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE ROBERT D. McLAREN)
John J. Nelligan

EIGHTEENTH JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE ROBERT A. NOLAN)
Michael R. Galasso

NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY

(TO FILL THE VACANCY OF THE HONORABLE LAWRENCE D. INGLIS)
Stephen E. Walter

TWENTIETH JUDICIAL CIRCUIT
(TO FILL THE VACANCY OF THE HONORABLE RICHARD A. HUDLIN)
Michael J. O'Malley

TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY
(TO FILL THE VACANCY OF THE HONORABLE RICHARD P. GOLDENHERSH)
Jerome F. Lopinot

Now, Therefore, I, James R. Thompson, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

Issued by the Governor November 26, 1990.
Filed with the Secretary of State November 26, 1990.

STATE BOARD OF ELECTIONS
STATE OF ILLINOIS

November 28, 1990

The Honorable James R. Thompson
Room 207, Capitol Building
Springfield, IL 62706

Dear Governor Thompson:

For your information, the Circuit Court of Cook County has issued its decision in the case of John P. Tully v. State of Illinois, et al., 90 CO 290. William Sylvester White is proclaimed retained in office as Justice of the Illinois Appellate Court, First District, and the proclamation that John P. Tully was elected to fill the seat of William Sylvester White is withdrawn.

Sincerely,

KELVIN HUDSON
Associate Director

90-540
ELECTION RESULTS - MULTI COUNTY REGIONAL
SUPERINTENDENTS OF SCHOOLS

Whereas, On the 6th day of November, 1990, an election was

ILLINOIS REGISTER

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held in the State of Illinois,
Whereas, In pursuance of law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 26th day of November, 1990, canvass the same, and as a result of such canvass, did declare elected the following named persons to the following named offices:

REGIONAL SUPERINTENDENTS OF SCHOOLS

ADAMS and PIKE REGION
Steve Oelklaus

ALEXANDER, JOHNSON, MASSAC, PULASKI and UNION REGION
Jerry G. Johnson

BOND, EFFINGHAM and FAYETTE REGION
Delbert L. Maroon

BOONE and WINNEBAGO REGION
Richard L. Fairgrievies

BROWN, CASS and SCHUYLER REGION
Gene Ralston

CALHOUN, GREENE and JERSEY REGION
James M. Frazier

CARROLL and JODAVIES REGION
John B. Lang

CHAMPAIGN and FORD REGION
Charles N. Sutton

CHRISTIAN and MONTGOMERY REGION
Thomas D. "Tom" Rigdon

CLARK, COLES, CUMBERLAND, EDGAR, MOULTRIE and SHELBY REGION
Rose Mary Shepherd

CLAY, JASPER and RICHLAND REGION
Samuel T. White

CLINTON and WASHINGTON REGION
Larry C. Wolfe

CRAWFORD and LAWRENCE REGION
Roger Lewis

DEWITT and McLEAN REGION
Donald L. Robinson

DOUGLAS and PIATT REGION
Charles W. (Chob) Edmundson
EDWARDS, WABASH, WAYNE and WHITE REGION
Kermit Braddock
GALLATIN, HARDIN, POPE and SALINE REGION
John W. Wilson

GRUNDY and KENDALL REGION
Richard Krase

HAMILTON and JEFFERSON REGION
P.E. Cross

HANCOCK and McDONOUGH REGION
Donald Simpkins

HENDERSON, MERCER and WARREN REGION
Roger D. Birkhead

HENRY and STARK REGION
Ronald Hewitt

JACKSON and PERRY REGION
Donald L. "Don" Brewer

LOGAN, MASON and MENARD REGION
George D. Janet

MARSHALL, PUTNAM and WOODFORD REGION
Iner A. Anderson

MONROE and RANDOLPH REGION
Faye J. Hughes

MORGAN and SCOTT REGION
Paul A. Keller

Now, Therefore, I, James R. Thompson, Governor of the State of Illinois, in conformity to statute in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass the foregoing persons duly elected to the offices as set out above.

Issued by the Governor November 26, 1990.
Filed with the Secretary of State November 26, 1990.

90-541

ELECTION RESULTS - PROPOSED CONSTITUTIONAL AMENDMENT

Whereas, On the 6th day of November, 1990, an election was held in the State of Illinois at which time a proposed amendment to Section 8 of Article IX of the Constitution (Delinquent Tax Sales) was submitted, and

Whereas, In pursuance of law, the State Board of Elections appointed to canvass the returns of such election and to declare the results thereof, did, on this the 26th day of November, 1990, canvass the same, and as a result of such canvass, did declare that the same having received either three-fifths of those voting on the question or a majority of those voting in the election is therefore adopted.

Now, Therefore, I, James R. Thompson, Governor of the State of Illinois, in conformity to statutes in such case made and provided, do hereby make public proclamation, declaring as a result of such canvass that the foregoing proposed amendment is adopted.

Issued by the Governor November 26, 1990.

Filed with the Secretary of State November 26, 1990.

90-542

ALZHEIMER'S DISEASE MONTH

Whereas, more than four million people in the United States are affected by Alzheimer's disease, a degenerative, progressive disease that attacks the brain and results in impaired memory, thinking, and behavior; and

Whereas, Alzheimer's disease is the most common form of dementing illness, taking more than 100,000 lives annually. It is the fourth leading cause of death among older adults; and

Whereas, as our population ages, the number of older Americans afflicted with Alzheimer's disease will increase, and in one-third of all American families, one parent will succumb to this disease; and

Whereas, Alzheimer's disease costs the United States more than 80 billion dollars annually, with only \$4.4 billion covered by the federal government and \$4.1 billion covered by state governments, leaving the remaining costs to be borne by Alzheimer's patients and their families; and

Whereas, increasing public awareness about Alzheimer's disease and the Alzheimer's Association may stimulate the interest and concern of the American people, which may in turn, lead to increased research and eventually to the discovery of a cure for Alzheimer's disease; and

Whereas, the Alzheimer's Association celebrates its 10th anniversary November 1990;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim November 1990 as ALZHEIMER'S DISEASE MONTH and encourage Illinoisans to strive to increase awareness about the

disease.
Issued by the Governor November 26, 1990.
Filed with the Secretary of State December 3, 1990.

90-543

WALTER W. WHITMAN JR. DAY

Whereas, Mr. Walter W. Whitman Jr. is the Founder and Director of the Soul Children of Chicago, a not-for-profit organization whose participants are talented children ranging in age from 7 to 17 who perform as goodwill ambassadors across the United States of America; and

Whereas, during Mr. Whitman's ten years of unselfish and dedicated service, he has left a lasting impression on the lives of the hundreds of young people who have passed through the corridors of the Soul Children organization; and

Whereas, Mr. Whitman has provided young people of all races, creeds, and conditions with the opportunity to expand their ethnic and cultural growth, study the history and technique of a vast range of musical modes, develop positive self-esteem, and broaden their contributions to society; and

Whereas, Mr. Whitman has demanded excellence in education and in moral values from the members of the Soul Children of Chicago; and

Whereas, the Soul Children of Chicago, friends, and well-wishers from across the country will gather on November 30, 1990, to salute Mr. Whitman for his excellent work;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim November 30, 1990, as MR. WALTER W. WHITMAN JR. DAY in Illinois and urge all citizens to be cognizant of the special events held to honor Mr. Whitman.

Issued by the Governor November 26, 1990.

Filed with the Secretary of State December 3, 1990.

90-544

CITY OF SENECA CONGRATULATED/MAYOR CHARLES MCALLESTER

Whereas, Landing Ship Tanks (LST) were assembled in the city of Seneca during World War II; and

Whereas, the LST Memorial Park Foundation, Inc. is a not-for-profit organization established for the purpose of returning an LST ship to Seneca; and

Whereas, the Republic of China has agreed to return an LST to Seneca; and

Whereas, the ship will serve as a memorial and will contribute to the tourism industry of the city of Seneca and our state; and

Whereas, the United Seneca Navy has been established to sail the LST back to Seneca, and the Honorable Charles McAllester, Mayor of the Village of Seneca and Honorary Admiral of the United

Seneca Navy, has been instrumental in Seneca's efforts to return an LST to the village from which it originated;

Therefore, I, James R. Thompson, Governor of the State of Illinois, congratulate the CITY OF SENECA on its efforts to return an LST to its place of origin and commend MAYOR CHARLES MCALLESTER on his dedication to the community in which he serves as mayor and his efforts as Admiral of the United Seneca Navy to accomplish its mission.

Issued by the Governor November 28, 1990.

Filed with the Secretary of State December 3, 1990.

90-545

FEED THE HUNGRY MONTH

Whereas, the Illinois Life Underwriters Association (ILUA) strives to enhance the professional skills of the individuals who provide life and health insurance and other financial products and services to the public; and

Whereas, since 1984 the ILUA has spearheaded the "Feed Our Hungry" program as a statewide public service project; and

Whereas, the program has also sparked interest in associations on the local level--thousands of pounds of food have been collected for needy families in many communities;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim December 1990 as FEED THE HUNGRY MONTH in Illinois and commend ILUA on the steps it has taken to combat hunger.

Issued by the Governor November 29, 1990.

Filed with the Secretary of State December 3, 1990.

90-546

WBBM'S WREATH OF HOPE DAYS

Whereas, founded in 1968 by WBBM Newsradio 78 as a non-profit, charitable project, the Wreath of Hope helps brighten the lives of the needy during the holiday season; and

Whereas, several agencies that provide direct services to a broad spectrum of the Chicago community have been selected as the 1990 Wreath of Hope beneficiaries. They include: Bethel New Life, Bethlehem Center Food Depository, Chicago Fund on Aging & Disability, Chicago Heights Community Youth, Community Linkages, Crisis Center, Teen Living Programs, The Harbor, and Ronald McDonald Houses; and

Whereas, from November 12-December 31, 1990, WBBM will be actively soliciting donations from listeners and corporations and will be sponsoring several fund-raising promotions;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim November 12-December 31, 1990, as WBBM'S WREATH OF HOPE DAYS in Illinois, in recognition of the past 22 years of contributions this project has made to the quality of

life for many Chicago area residents.

Issued by the Governor November 29, 1990.

Filed with the Secretary of State December 3, 1990.

90-547

JOE BROOKS CONGRATULATED

Whereas, Coach "Joe" Brooks will be honored by the Illinois College Alumni on November 30, 1990, for his devotion to Illinois College on its 100th anniversary of football; and

Whereas, a 1947 graduate of the University of Illinois, Joe earned Bachelor of Arts and Master of Science degrees in physical education; and

Whereas, in Joe's 38-year tenure at Illinois College, with 30 years as head football coach, he accomplished a 138-127-9 record; and

Whereas, Joe's finest teams were the 1977, 1978, and 1979 squads that finished with a combined record of 22-4, and the 1978 team, which was his best record-wise, finishing with an 8-1 record, best in modern school history; and

Whereas, throughout his entire adult life Joe as spent countless hours providing outstanding leadership and guidance to the thousands of students and athletes he has encountered. He was an extremely popular coach among his peers, the community, and the students. He loves coaching and feels the challenges as well as the rewards are great; and

Whereas, Joe's loving wife, Shirley, spent many nights listening to conversations dealing with Illinois College, be it athletic or educational, while raising two children, Danny and Kathleen; and

Whereas, at a time when educators and coaches are being blamed for the lack of well-trained citizenry, it is an encouraging and deserving tribute to know a gentleman who has positively affected the lives of all whom he has encountered at Illinois College;

Therefore, I, James R. Thompson, Governor of the State of Illinois, congratulate Joe for his outstanding accomplishments.

Issued by the Governor November 30, 1990.

Filed with the Secretary of State December 3, 1990.

90-548

KENNETH R. KRUEGER DAY

Whereas, Kenneth R. Krueger has dedicated the best years of his life to the telephone industry in the State of Illinois; and

Whereas, Ken began his employment as office manager of Continental Telephone Company in Sycamore in April 1956. Since then, he has held various positions for Contel in Sycamore and Mascoutah, ending his career as Coordinator of Tariffs; and

Whereas, Ken served as Chairman of the Illinois Telephone

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ILLINOIS REGISTER

Association's Emergency Services Committee (9-1-1) for 13 years; and Whereas, Ken was a leading advocate in developing inter-company cooperation and encouraged active participation with Illinois Commerce Commission staff in the implementation of 9-1-1 throughout the State of Illinois; and Whereas, Ken's retirement on December 31, 1990, will leave a void in the telephone industry in Illinois; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim December 11, 1990, as KENNETH R. KRUEGER DAY in Illinois and extend best wishes to Ken on his retirement. Issued by the Governor November 30, 1990. Filed with the Secretary of State December 3, 1990.

ACTION CODES

JCAR - Joint Committee on Administrative Rules

A - Adopted Rule
AR - Adopted Repealer
C - Notice of Corrections
CC - Codification Changes
E - Emergency Rule
ER - Emergency Repealer
M - Modification to meet JCAR objections
O - JCAR Statement of Objections

P - Proposed Rule
PF - Prohibited Filing Ordered by JCAR
PP - Peremptory or Court ordered Rules
PR - Proposed Repealer
R - Refusal to meet JCAR objection
RC - Statement of Recommendation
S - Suspension ordered by JCAR
W - Withdrawal to meet JCAR objections

EXAMPLE:

AGRICULTURE, DEPARTMENT OF

8 Ill. Adm. Code 285 Ill. Grain Insurance Act (P-18048/85; A-6818)

TITLE PART ACTION CODE PAGE NUMBER PREVIOUS VOLUME ACTION CODE

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

ABANDONED MINED LANDS RECLAMATION COUNCIL

2 Ill. Adm. Code 1500 Public Information, Rulemaking & Organization (A-16854)

AGING, DEPARTMENT ON

89 Ill. Adm. Code 240 Community Care Program (P-1077; A-10732; RC-12942) (P-13638/89; O-17144/89; R-1533) (P-13353/89; A-1233) (P-18635) (P-19415)
89 Ill. Adm. Code 220 General Programmatic Requirements (P-19442)
89 Ill. Adm. Code 230 Older Americans Act Programs (P-14499/89; A-2308) (P-19469)

AGRICULTURE, DEPARTMENT OF

8 Ill. Adm. Code 110 Animal Diagnostic Laboratory Act (P-15911/89; A-1907) (P-16861/89; A-3416) (P-8759; A-15304)
8 Ill. Adm. Code 75 Bovine Brucellosis (P-15915/89; A-1911)
8 Ill. Adm. Code 85 Diseased Animals (P-15926/89; A-1919) (P-8768; A-15313)
8 Ill. Adm. Code 80 Ill. Bovine Tuberculosis Eradication Act (P-15938/89; A-1931)
8 Ill. Adm. Code 115 Ill. Pseudorabies Control Act (P-15942/89; A-1935) (P-19329/89; A-5065) (P-8773; A-15318)
8 Ill. Adm. Code 270 Ill. State Fair & DuQuoin State Fair, Non-Fair Space Rental & the General Operation of the State Fairgrounds (P-10965)
8 Ill. Adm. Code 40 Livestock Auction Markets (P-15950/89; A-1943)
8 Ill. Adm. Code 45 Marketing Center (Livestock) (P-15956/89; A-1949)
8 Ill. Adm. Code 125 Meat & Poultry Inspection Act (P-16625/89; A-3424) (PP-4953) (PP-11401) (PP-13355) (PP-16064)

AGRICULTURE, DEPARTMENT OF (CONT'D)

8 Ill. Adm. Code 850 Motor Fuel Standards Act (P-19837/89; A-5072)
2 Ill. Adm. Code 700 Organizational Chart, Description, Rulemaking Procedure, & Programs (A-584) (A-4093) (A-9009)
8 Ill. Adm. Code 290 Standardbred & Thoroughbred Horse Breeding & Racing Program (P-19087)
8 Ill. Adm. Code 5 Standardization of Agriculture Products (P-3711; A-10308)
8 Ill. Adm. Code 100 Swine Brucellosis (P-15960/89; A-1953)
8 Ill. Adm. Code 105 Swine Disease Control & Eradication Act (P-15968/89; A-1961) (P-8777; A-15322)

ALCOHOLISM AND SUBSTANCE ABUSE, DEPARTMENT OF

77 Ill. Adm. Code 2058 Licensure of Alcoholism & Substance Abuse Treatment Intervention & Research Programs (P-6457)

ATTORNEY GENERAL

86 Ill. Adm. Code 2000 Ill. Estate & Generation - Skipping Transfer Tax Act (P-4281; A-17183)

AUDITOR GENERAL

74 Ill. Adm. Code 420 Code of Regs. (P-1541; A-15327) (P-15645)

BANKS AND TRUST COMPANIES, COMMISSIONER OF

38 Ill. Adm. Code 395 Corporate Fiduciary Branch Offices (P-2981)
38 Ill. Adm. Code 397 Corporate Fiduciary Receivership Account (P-15181)
38 Ill. Adm. Code 396 Corporate Fiduciary Subsidiaries (P-2985; A-15771)
38 Ill. Adm. Code 356 Reimbursement to Banks & Corporate Fiduciaries for Financial Records (P-3303; A-11183)
38 Ill. Adm. Code 356 Reimbursement to Banks for Financial Records (P-3303)

CARNIVAL-AMUSEMENT SAFETY BOARD

56 Ill. Adm. Code 6000 Carnival & Amusement Ride Inspection Law (P-2989) (E-3235; O-5905)

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

80 Ill. Adm. Code 303 Conditions of Employment (P-17169/89; A-3433) (P-17399)
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The Sections Affected Index lists, by Title, each Section of a codified Part on which rulemaking activity has occurred in this volume of the Register and is divided into two parts: the first lists the Sections on which rulemaking activity occurred in the previous issues of this volume year; the second lists the Sections on which rulemaking activity occurred in this issue of the Register. (The headings at the top of each page indicate the two parts: the first part shows the previous issue numbers inclusively and the date of the last published issue; the second lists the current issue number and date.) The columns in both parts indicate the type of rulemaking activity and the action taken along with the page number on which the first page of the notice of rulemaking activity appeared. If a Section on which action is being taken in the current volume (calendar year) of the Register was proposed in a previous volume, the last two digits of the previous volume's year appear immediately after the page number separated by a slash. (e.g. 1 III. Adm. Code 100.280 was proposed last year and adopted this year. The action entry reads: (P-8577/89; A-724) The codes for both columns are listed below. For a complete listing of the Title: of the Illinois Administrative Code, please refer to 1 III. Adm. Code 100.140 or contact the Administrative Code Division.

TYPE OF RULEMAKING		ACTION CODES	
am = amendment to existing Section	A = Adopted rule	O = JCAR Objection	
cc = codification changes	C = Correction	P = Proposed rule	
n = new Section	CC = Codification Changes	PF = Prohibited Filing	
r = repeal of existing Section	E = Emergency rule	PP = Peremptory rule	
rc = recodified	F = Failure to Remedy Objections	R = Refusal to Modify or Withdraw	
# = renumbered	M = Modification	RC = JCAR Recommendation	
		S = Suspended rule	
		W = Withdrawal of Proposed rule	

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150.220	am	(A-3049)	2700.Ap.A	n	(A-11982)
150.Ap.A	am	(A-3049)	2701.10	n	(A-12543)
551.40	am	(A-13852)	2701.13	n	(A-12543)
552.10	am	(A-6854)	2701.16	n	(A-12543)
625.55	am	(A-186)	2701.19	n	(A-12543)
700.20	am	(A-9009)	2701.21	n	(A-12543)
700.30	am	(A-584)	2701.24	n	(A-12543)
700.40	am	(A-584)	2701.27	n	(A-12543)
700.50	am	(A-584)	2701.30	n	(A-12543)
700.70	am	(A-584)	2701.Ap.A	n	(A-12543)
700.80	am	(A-584)	2701.Ap.B	n	(A-14387)
700.100	am	(A-584)	5176.110	am	(A-14387)
700.140	am	(A-584)	5176.120	n	(A-14387)
700.Ap.E	n	(A-584)			
700.Ap.C	am	(A-4093)			
1026.110	am	(A-14032)			
1026.120	r	(A-14032)			
1026.130	am	(A-14032)			
1026.140	am	(A-14032)			
1026.150	am	(A-14032)			
1026.160	am	(A-14032)			
1026.170	am	(A-14032)			
1026.180	r	(A-14032)			
1026.190	am	(A-14032)			
1026.200	am	(A-14032)			
1026.210	r	(A-14032)			
1026.220	r	(A-14032)			
1026.Ap.A	am	(A-14032)			
1176.110	am	(P-9364; A-15999)			
1176.310	am	(P-9364; A-15999)			
1176.400	am	(P-9364; A-15999)			
1176.410	am	(P-9364; A-15999)			
1500.20	am	(A-16854)			
1500.60	am	(A-16854)			
1500.1200	am	(A-16854)			
1500.240	am	(A-16854)			
1500.250	am	(A-16854)			
1500.Ap.A	am	(A-16854)			
2675.10	n	(A-4158)			
2675.20	n	(A-4158)			
2675.30	n	(A-4158)			
2675.110	n	(A-4158)			
2675.120	n	(A-4158)			
2675.210	n	(A-4158)			
2675.220	n	(A-4158)			
2675.230	n	(A-4158)			
2675.240	n	(A-4158)			
2675.250	n	(A-4158)			
2675.260	n	(A-4158)			
2675.Ap.A	n	(A-4158)			
2676.10	n	(A-4151)			
2676.20	n	(A-4151)			
2676.30	n	(A-4151)			
2676.40	n	(A-4151)			
2676.50	n	(A-4151)			
2676.60	n	(A-4151)			
2676.70	n	(A-4151)			
2700.10	n	(A-11982)			
2700.13	n	(A-11982)			
2700.15	n	(A-11982)			
2700.20	n	(A-11982)			
2700.25	n	(A-11982)			
2700.26	n	(A-11982)			
2700.27	n	(A-11982)			

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600.10	am	(P-3349; A-12531)			
600.20	am	(P-3349; A-12531)			
600.40	am	(P-3349; A-12531)			
600.70	am	(P-3349; A-12531)			
600.80	am	(P-3349; A-12531)			
600.85	r	(P-3349; A-12531)			
600.90	am	(P-3349; A-12531)			

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5.220	r	(P-3711; A-10308)			
5.230	r	(P-3711; A-10308)			
40.5	am	(P-15950/89; A-1943)			
40.60	am	(P-15950/89; A-1943)			
40.170	am	(P-15950/89; A-1943)			
40.190	am	(P-15950/89; A-1943)			
45.20	am	(P-15956/89; A-1949)			
45.150	am	(P-15956/89; A-1949)			
75.50	am	(P-15915/89; A-1911)			
75.120	am	(P-15915/89; A-1911)			
75.190	am	(P-15915/89; A-1911)			
75.210	am	(P-15915/89; A-1911)			
80.10	am	(P-15938/89; A-1931)			
80.110	am	(P-15938/89; A-1931)			
85.5	am	(P-15926/89; A-1919)			
85.15	am	(P-15926/89; A-1919)			
85.50	am	(P-15926/89; A-1919)			
85.75	am	(P-15926/89; A-1919)			
85.80	am	(P-15926/89; A-1919)			
85.100	am	(P-15926/89; A-1919)			
85.110	am	(P-15926/89; A-1919)			
85.115	n	(P-8768; A-15313)			
100.10	am	(P-15960/89; A-1953)			
100.30	am	(P-15960/89; A-1953)			
105.10	am	(P-15968/89; A-1961)			
105.30	am	(P-15968/89; A-1961)			
110.20	am	(P-8777; A-15322)			
110.40	am	(P-15911/89; A-1907)			
110.90	am	(P-8759; A-15304)			
110.110	am	(P-16861/89; A-3416)			
110.120	am	(P-16861/89; A-3416)			
115.20	am	(P-15911/89; A-1907)			
115.40	am	(P-15942/89; A-1935)			
115.50	am	(P-15942/89; A-1935)			
115.80	am	(P-19329/89; A-5065)			
125.10	am	(P-15942/89; A-1935)			
	am	(A-15318)			
	am	(P-16625/89; A-3424)			

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1037.70	n	(P-16227/89; A-4508)	2761.30
1037.80	n	(P-16227/89; A-4508)	2761.40
1501.111	am	(P-16869/89; A-4126)	3030.20
1501.113	am	(P-18890)	3030.105
1501.302	am	(P-16869/89; A-4126)	
1501.303	am	(P-18025/89; A-10762)	TITLE 26
1501.308	am	(P-16869/89; A-4126)	100.20
1501.406	am	(P-16869/89; A-4126)	100.30
1501.501	am	(P-16869/89; A-4126)	100.40
1501.501	am	(P-16869/89; A-4126)	100.60
1501.501	am	(P-16869/89; A-4126)	100.70
1501.501	am	(P-16869/89; A-4126)	100.80
1501.503	am	(P-16869/89; A-4126)	100.100
1501.508	am	(P-16869/89; A-4126)	125.5
1501.509	am	(P-18890)	125.90
1501.510	am	(P-16869/89; A-4126)	125.95
1501.510	am	(P-18890)	125.170
1501.510	am	(P-16869/89; A-4126)	125.190
1501.515	am	(P-16869/89; A-4126)	125.195
1501.515	am	(P-16869/89; A-4126)	125.199
1501.516	am	(P-18890)	125.245
1501.517	am	(P-3308; A-13997)	125.250
1501.517	am	(P-14; A-11771) (E-299)	125.250
1501.601	am	(P-18890)	125.252
1501.602	am	(P-3308; A-13997)	125.253
1501.603	am	(P-3308; A-13997)	125.254
1501.604	am	(P-3308; A-13997)	125.255
1501.604	am	(P-3308; A-13997)	125.260
1501.605	am	(P-3308; A-13997)	125.262
1501.608	am	(P-3308; A-13997)	125.270
1501.610	n	(P-3308; A-13997)	125.272
2400.10	am	(P-12357; A-19178)	125.275
2400.20	am	(P-12357; A-19178)	125.340
2400.30	am	(P-1703; A-12262) (P-12357; A-19178)	125.420
2400.50	am	(P-12357; A-19178)	125.425
2400.60	am	(P-12357; A-19178)	125.510
2700.20	am	(P-18207/89; A-10538)	125.520
2700.30	am	(P-18207/89; A-10538)	125.530
2700.40	am	(P-18207/89; A-10538)	125.540
2700.50	am	(P-18207/89; A-10538)	125.610
2700.70	am	(P-18207/89; A-10538)	207.110
2700.90	am	(P-18207/89; A-10538)	207 Ap.B
2720.10	am	(P-18222/89; A-10553)	210.10
2720.30	am	(P-18222/89; A-10553)	210 Ap.A
2720.50	am	(E-4266)	210 Ap.B
2720.60	am	(P-2300; A-10941)	
2720.70	am	(P-18222/89; A-10553)	TITLE 32
2720.80	am	(P-18222/89; A-10553)	310.10
2720.90	am	(P-18222/89; A-10553)	310.20
2720.120	am	(P-18222/89; A-10553)	310.30
2720.210	n	(P-2300; A-10941)	310.40
2720.210	am	(P-18222/89; A-10553)	310.50
2730.10	am	(P-18236/89; A-10567)	310.80
2731.10	am	(P-18204/89; A-10534)	310.81
2731.20	am	(P-18204/89; A-10534)	310.82
2732.10	am	(P-18257/89; A-10585)	310.90
2732.20	am	(P-18257/89; A-10585)	310.90
2732.30	am	(P-18239/89; A-10571)	310.130
2733.20	am	(P-18239/89; A-10571)	310.130
2733.30	am	(P-18239/89; A-10571)	310 Ap.C
2735.30	am	(P-18251/89; A-7242)	320.10
2735.50	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90
2735.70	am	(P-18251/89; A-7242)	320.10
2735.70	am	(P-18251/89; A-7242)	320.20
2735.70	am	(P-18251/89; A-7242)	320.30
2735.70	am	(P-18251/89; A-7242)	320.40
2735.70	am	(P-18251/89; A-7242)	320.50
2735.70	am	(P-18251/89; A-7242)	320.60
2735.70	am	(P-18251/89; A-7242)	320.70
2735.70	am	(P-18251/89; A-7242)	320.80
2735.70	am	(P-18251/89; A-7242)	320.90

FILE 32 (CONT'D)

(P-5874/89; A-1333; O-2134; R-6437)

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(P-14727/89; A-9244)

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			n	730.172	n	(P-18139/89; A-3130)	n	808.521	n	(P-13468/89; A-14043)	n	811.406	n	(P-3923; A-15861)	n
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720.122	am	(P-72; A-6225) (P-13925)	am	731.191	am	(P-4406; A-11964)	am	808.541	n	(P-13468/89; A-14043)	n	811.503	n	(P-3923; A-15861)	n
721.103	am	(P-6528; A-14401)	am	731.192	am	(P-153; A-5797)	am	808.542	n	(P-13468/89; A-14043)	n	811.504	n	(P-3923; A-15861)	n
721.104	am	(P-6528; A-14401)	am	731.197	am	(P-4406; A-11964)	am	808.543	n	(P-13468/89; A-14043)	n	811.505	n	(P-3923; A-15861)	n
			n	731.200	am	(P-7291; A-9454)	am	808.544	n	(P-13468/89; A-14043)	n	811.506	n	(P-3923; A-15861)	n
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721.110	am	(P-13938)	am	731.205	am	(P-153; A-5797)	am	808.600	n	(P-13468/89; A-14043)	n	811.508	n	(P-3923; A-15861)	n
721.111	am	(P-13938)	am	731.209	am	(P-153; A-5797)	am	808.601	n	(P-13468/89; A-14043)	n	811.509	n	(P-3923; A-15861)	n
721.124	am	(P-9729; A-16472)	am	731.210	am	(P-153; A-5797)	am	808.602	n	(P-13468/89; A-14043)	n	811.701	n	(P-3923; A-15861)	n
721.124	am	(P-9729; A-16472)	am	731.211	am	(P-153; A-5797)	am	808.603	n	(P-13468/89; A-14043)	n	811.702	n	(P-3923; A-15861)	n
721.130	am	(P-6528; A-14401)	am	731.212	am	(P-153; A-5797)	am	808.604	n	(P-13468/89; A-14043)	n	811.703	n	(P-3923; A-15861)	n
721.131	am	(P-9729; A-16472)	am	731.213	am	(P-153; A-5797)	am	808.605	n	(P-13468/89; A-14043)	n	811.704	n	(P-3923; A-15861)	n
			n	731.214	am	(P-153; A-5797)	am	808.606	n	(P-13468/89; A-14043)	n	811.705	n	(P-3923; A-15861)	n
721.132	am	(P-6528; A-14401)	am	731.215	am	(P-153; A-5797)	am	808.607	n	(P-13468/89; A-14043)	n	811.706	n	(P-3923; A-15861)	n
Ap.B	am	(P-6528; A-14401)	am	731.216	am	(P-153; A-5797)	am	808.608	n	(P-13468/89; A-14043)	n	811.707	n	(P-3923; A-15861)	n
Ap.C	am	(P-6528; A-14401)	am	731.217	am	(P-153; A-5797)	am	808.609	n	(P-13468/89; A-14043)	n	811.708	n	(P-3923; A-15861)	n
			n	731.218	am	(P-153; A-5797)	am	808.610	n	(P-13468/89; A-14043)	n	811.709	n	(P-3923; A-15861)	n
Ap.G	am	(P-6528; A-14401)	am	731.219	am	(P-153; A-5797)	am	808.611	n	(P-13468/89; A-14043)	n	811.710	n	(P-3923; A-15861)	n
Ap.H	am	(P-6528; A-14401)	am	731.220	am	(P-153; A-5797)	am	808.612	n	(P-13468/89; A-14043)	n	811.711	n	(P-3923; A-15861)	n
722.123	am	(P-9768; A-16653)	am	731.221	am	(P-153; A-5797)	am	808.613	n	(P-13468/89; A-14043)	n	811.712	n	(P-3923; A-15861)	n
724.113	am	(P-6638; A-14511)	am	731.222	am	(P-153; A-5797)	am	808.614	n	(P-13468/89; A-14043)	n	811.713	n	(P-3923; A-15861)	n
724.212	am	(P-6638; A-14511)	am	731.223	am	(P-153; A-5797)	am	808.615	n	(P-13468/89; A-14043)	n	811.714	n	(P-3923; A-15861)	n
724.213	am	(P-6638; A-14511)	am	731.224	am	(P-153; A-5797)	am	808.616	n	(P-13468/89; A-14043)	n	811.715	n	(P-3923; A-15861)	n
724.242	am	(P-6638; A-14511)	am	731.225	am	(P-153; A-5797)	am	808.617	n	(P-13468/89; A-14043)	n	811.716	n	(P-3923; A-15861)	n
724.401	am	(P-6638; A-14511)	am	731.226	am	(P-153; A-5797)	am	808.618	n	(P-13468/89; A-14043)	n	811.717	n	(P-3923; A-15861)	n
725.113	am	(P-6574; A-14447)	am	731.227	am	(P-153; A-5797)	am	808.619	n	(P-13468/89; A-14043)	n	811.718	n	(P-3923; A-15861)	n
725.212	am	(P-6574; A-14447)	am	731.228	am	(P-153; A-5797)	am	808.620	n	(P-13468/89; A-14043)	n	811.719	n	(P-3923; A-15861)	n
725.213	am	(P-6574; A-14447)	am	731.229	am	(P-153; A-5797)	am	808.621	n	(P-13468/89; A-14043)	n	811.720	n	(P-3923; A-15861)	n
725.242	am	(P-6574; A-14447)	am	731.230	am	(P-153; A-5797)	am	808.622	n	(P-13468/89; A-14043)	n	811.721	n	(P-3923; A-15861)	n
725.321	am	(P-9754; A-16498)	am	731.231	am	(P-153; A-5797)	am	808.623	n	(P-13468/89; A-14043)	n	811.722	n	(P-3923; A-15861)	n
725.373	am	(P-9754; A-16498)	am	731.232	am	(P-153; A-5797)	am	808.624	n	(P-13468/89; A-14043)	n	811.723	n	(P-3923; A-15861)	n
726.120	am	(P-6660; A-14533)	am	731.233	am	(P-153; A-5797)	am	808.625	n	(P-13468/89; A-14043)	n	811.724	n	(P-3923; A-15861)	n
728.101	am	(P-6597; A-14470)	am	731.234	am	(P-153; A-5797)	am	808.626	n	(P-13468/89; A-14043)	n	811.725	n	(P-3923; A-15861)	n
728.105	am	(P-6597; A-14470)	am	731.235	am	(P-153; A-5797)	am	808.627	n	(P-13468/89; A-14043)	n	811.726	n	(P-3923; A-15861)	n
728.106	am	(P-6597; A-14470)	am	731.236	am	(P-153; A-5797)	am	808.628	n	(P-13468/89; A-14043)	n	811.727	n	(P-3923; A-15861)	n
728.107	am	(P-6597; A-14470)	am	731.237	am	(P-153; A-5797)	am	808.629	n	(P-13468/89; A-14043)	n	811.728	n	(P-3923; A-15861)	n
728.108	am	(P-6597; A-14470)	am	731.238	am	(P-153; A-5797)	am	808.630	n	(P-13468/89; A-14043)	n	811.729	n	(P-3923; A-15861)	n
728.132	am	(P-6597; A-14470)	am	731.239	am	(P-153; A-5797)	am	808.631	n	(P-13468/89; A-14043)	n	811.730	n	(P-3923; A-15861)	n
728.133	am	(P-6597; A-14470)	am	731.240	am	(P-153; A-5797)	am	808.632	n	(P-13468/89; A-14043)	n	811.731	n	(P-3923; A-15861)	n
728.134	am	(P-79; A-6232)	n	731.241	am	(P-153; A-5797)	am	808.633	n	(P-13468/89; A-14043)	n	811.732	n	(P-3923; A-15861)	n
728.142	am	(P-79; A-6232)	am	731.242	am	(P-153; A-5797)	am	808.634	n	(P-13468/89; A-14043)	n	811.733	n	(P-3923; A-15861)	n
728.143	am	(P-79; A-6232)	am	731.243	am	(P-153; A-5797)	am	808.635	n	(P-13468/89; A-14043)	n	811.734	n	(P-3923; A-15861)	n
728.150	am	(P-79; A-6232)	am	731.244	am	(P-153; A-5797)	am	808.636	n	(P-13468/89; A-14043)	n	811.735	n	(P-3923; A-15861)	n
Ap.A	am	(P-6597; A-14470)	am	731.245	am	(P-153; A-5797)	am	808.637	n	(P-13468/89; A-14043)	n	811.736	n	(P-3923; A-15861)	n
Th.B	am	(P-6597; A-14470)	am	731.246	am	(P-153; A-5797)	am	808.638	n	(P-13468/89; A-14043)	n	811.737	n	(P-3923; A-15861)	n
			n	731.247	am	(P-153; A-5797)	am	808.639	n	(P-13468/89; A-14043)	n	811.738	n	(P-3923; A-15861)	n
730.101	am	(P-18139/89; A-3130)	am	731.248	am	(P-153; A-5797)	am	808.640	n	(P-13468/89; A-14043)	n	811.739	n	(P-3923; A-15861)	n
730.103	am	(P-3014; A-11959)	am	731.249	am	(P-153; A-5797)	am	808.641	n	(P-13468/89; A-14043)	n	811.740	n	(P-3923; A-15861)	n
730.108	am	(P-18139/89; A-3130)	am	731.250	am	(P-153; A-5797)	am	808.642	n	(P-13468/89; A-14043)	n	811.741	n	(P-3923; A-15861)	n
730.111	am	(P-18139/89; A-3130)	am	731.251	am	(P-153; A-5797)	am	808.643	n	(P-13468/89; A-14043)	n	811.742	n	(P-3923; A-15861)	n
730.113	am	(P-18139/89; A-3130)	am	731.252	am	(P-153; A-5797)	am	808.644	n	(P-13468/89; A-14043)	n	811.743	n	(P-3923; A-15861)	n
730.161	am	(P-18139/89; A-3130)	am	731.253	am	(P-153; A-5797)	am	808.645	n	(P-13468/89; A-14043)	n	811.744	n	(P-3923; A-15861)	n
730.162	am	(P-18139/89; A-3130)	am	731.254	am	(P-153; A-5797)	am	808.646	n	(P-13468/89; A-14043)	n	811.745	n	(P-3923; A-15861)	n
730.163	am	(P-18139/89; A-3130)	am	731.255	am	(P-153; A-5797)	am	808.647	n	(P-13468/89; A-14043)	n	811.746	n	(P-3923; A-15861)	n
730.164	am	(P-18139/89; A-3130)	am	731.256	am	(P-153; A-5797)	am	808.648	n	(P-13468/89; A-14043)	n	811.747	n	(P-3923; A-15861)	n
730.165	am	(P-18139/89; A-3130)	am	731.257	am	(P-153; A-5797)	am	808.649	n	(P-13468/89; A-14043)	n	811.748	n	(P-3923; A-15861)	n
730.166	am	(P-18139/89; A-3130)	am	731.258	am	(P-153; A-5797)	am	808.650	n	(P-13468/89; A-14043)	n	811.749	n	(P-3923; A-15861)	n
730.167	am	(P-18139/89; A-3130)	am	731.259	am	(P-153; A-5797)	am	808.651	n	(P-13468/89; A-14043)	n	811.750	n	(P-3923; A-15861)	n
730.168	am	(P-18139/89; A-3130)	am	731.260	am	(P-153; A-5797)	am	808.652	n	(P-13468/89; A-14043)	n	811.751	n	(P-3923; A-15861)	n

[illegible]

TITLE 50 (CONT'D)					
2013-60	n	(P-1729; A-17217)	8100.170		(P-16; A-8600) (E-305)
2013-70	n	(P-1729; A-17217)	8100.190		(P-16; A-8600) (E-305)
3113.50	am	(P-12935/89; A-2088)	8100.200		(P-16; A-8600) (E-305)
3113.60	am	(P-12935/89; A-2088)	8100.205		(P-16; A-8600) (E-305)
3118.10	am	(P-8454; A-17978)	8100.210		(P-16; A-8600) (E-305)
3118.30	r	(P-8454; A-17978)	8100.215		(P-16; A-8600) (E-305)
3118.40	r	(P-8454; A-17978)	8100.220		(P-16; A-8600) (E-305)
3118.60	am	(P-8454; A-17978)	8100.225		(P-16; A-8600) (E-305)
3118.80	r	(P-8454; A-17978)	8100.230		(P-16; A-8600) (E-305)
3118.100	am	(P-8454; A-17978)	8100.235		(P-16; A-8600) (E-305)
3118.110	r	(P-8454; A-17978)	8100.240		(P-16; A-8600) (E-305)
3119.20	am	(P-12127)	8100.245		(P-16; A-8600) (E-305)
3119.30	am	(P-12127)	8100.250		(P-16; A-8600) (E-305)
3119.40	am	(P-12127)	8100.255		(P-16; A-8600) (E-305)
3119.50	am	(P-12127)	8100.260		(P-16; A-8600) (E-305)
3119.60	am	(P-12127)	8100.265		(P-16; A-8600) (E-305)
3119.70	am	(P-12127)	8100.270		(P-16; A-8600) (E-305)
3119.Ex.A	am	(P-12127)	8100.275		(P-16; A-8600) (E-305)
3119.Ex.B	am	(P-12127)	8100.280		(P-16; A-8600) (E-305)
3119.Ex.C	am	(P-12127)	8100.400		(P-16; A-8600) (E-305)
3119.Ex.D	am	(P-12127)	8100.401		(P-16; A-8600) (E-305)
3119.Ex.H	am	(P-12127)	8100.402		(P-16; A-8600) (E-305)
7020.10	am	(P-18441)	8100.403		(P-16; A-8600) (E-305)
7020.20	am	(P-18441)	8100.600		(P-16; A-8600) (E-305)
7020.30	am	(P-18441)	8100.900		(P-16; A-8600) (E-305)
7020.40	am	(P-18441)	8100.905		(P-16; A-8600) (E-305)
7020.50	am	(P-18441)	8100.1005		(P-16; A-8600) (E-305)
7020.60	am	(P-18441)	8100.1100		(P-16; A-8600) (E-305)
7020.70	am	(P-18441)	8100.1200		(P-16; A-8600) (E-305)
7020.80	am	(P-18434)	8100.1300		(P-16; A-8600) (E-305)
7030.20	am	(P-18434)	8100.1500		(P-16; A-8600) (E-305)
7030.80	am	(E-4913) (P-5655; A-13141)	8100.1505		(P-16; A-8600) (E-305)
7030.100	n	(E-4913) (P-5655)	8100.1510		(P-16; A-8600) (E-305)
7030.Ap.A	n	(E-4940) (P-5682; A-13173)	8100.1515		(P-16; A-8600) (E-305)
7040.10	am	(E-4940) (P-5682; A-13173)	8100.1600		(P-16; A-8600) (E-305)
7040.40	am	(E-4940) (P-5682; A-13173)	8100.1700		(P-16; A-8600) (E-305)
7040.70	am	(E-4920) (P-5662; A-13149)	8100.1701		(P-16; A-8600) (E-305)
7100.100	n	(E-4929) (P-5671; A-13161)	8100.1702		(P-16; A-8600) (E-305)
8010.10	n	(P-14349/89; A-2952)	8100.1703		(P-16; A-8600) (E-305)
8010.20	n	(P-14349/89; A-2952)	8100.1704		(P-16; A-8600) (E-305)
8010.30	am	(P-7417; A-19369)	8100.1705		(P-16; A-8600) (E-305)
8010.40	n	(P-14349/89; A-2952)	8100.1706		(P-16; A-8600) (E-305)
8010.50	am	(P-7417; A-19369)	8100.1708		(P-16; A-8600) (E-305)
8010.60	n	(P-14349/89; A-2952)	8100.1710		(P-16; A-8600) (E-305)
8010.70	n	(P-14349/89; A-2952)	8100.1712		(P-16; A-8600) (E-305)
8010.80	n	(P-14349/89; A-2952)	8100.1714		(P-16; A-8600) (E-305)
8010.90	n	(P-14349/89; A-2952)	8100.1716		(P-16; A-8600) (E-305)
8010.100	am	(P-7417; A-19369)	8100.1718		(P-16; A-8600) (E-305)
8010.110	n	(P-16; A-8600) (E-305)	8100.1720		(P-16; A-8600) (E-305)
8010.120	n	(P-16; A-8600) (E-305)	8100.1722		(P-16; A-8600) (E-305)
8010.130	n	(P-16; A-8600) (E-305)	8100.1724		(P-16; A-8600) (E-305)
8010.140	n	(P-16; A-8600) (E-305)	8100.1726		(P-16; A-8600) (E-305)
8010.150	n	(P-16; A-8600) (E-305)	8100.1728		(P-16; A-8600) (E-305)
8010.160	n	(P-16; A-8600) (E-305)	8100.1730		(P-16; A-8600) (E-305)
8010.170	n	(P-16; A-8600) (E-305)	8100.1732		(P-16; A-8600) (E-305)
8010.180	n	(P-16; A-8600) (E-305)	8100.1734		(P-16; A-8600) (E-305)
8010.190	n	(P-16; A-8600) (E-305)	8100.1736		(P-16; A-8600) (E-305)
8010.200	n	(P-16; A-8600) (E-305)	8100.1738		(P-16; A-8600) (E-305)
8010.210	n	(P-16; A-8600) (E-305)	8100.1740		(P-16; A-8600) (E-305)
8010.220	n	(P-16; A-8600) (E-305)	8100.1742		(P-16; A-8600) (E-305)
8010.230	n	(P-16; A-8600) (E-305)	8100.1744		(P-16; A-8600) (E-305)
8010.240	n	(P-16; A-8600) (E-305)	8100.1746		(P-16; A-8600) (E-305)
8010.250	n	(P-16; A-8600) (E-305)	8100.1748		(P-16; A-8600) (E-305)
8010.260	n	(P-16; A-8600) (E-305)	8100.1750		(P-16; A-8600) (E-305)
8010.270	n	(P-16; A-8600) (E-305)	8100.1752		(P-16; A-8600) (E-305)
8010.280	n	(P-16; A-8600) (E-305)	8100.1754		(P-16; A-8600) (E-305)
8010.290	n	(P-16; A-8600) (E-305)	8100.1756		(P-16; A-8600) (E-305)
8010.300	n	(P-16; A-8600) (E-305)	8100.1758		(P-16; A-8600) (E-305)
8010.310	n	(P-16; A-8600) (E-305)	8100.1760		(P-16; A-8600) (E-305)
8010.320	n	(P-16; A-8600) (E-305)	8100.1762		(P-16; A-8600) (E-305)
8010.330	n	(P-16; A-8600) (E-305)	8100.1764		(P-16; A-8600) (E-305)
8010.340	n	(P-16; A-8600) (E-305)	8100.1766		(P-16; A-8600) (E-305)
8010.350	n	(P-16; A-8600) (E-305)	8100.1768		(P-16; A-8600) (E-305)
8010.360	n	(P-16; A-8600) (E-305)	8100.1770		(P-16; A-8600) (E-305)
8010.370	n	(P-16; A-8600) (E-305)	8100.1772		(P-16; A-8600) (E-305)
8010.380	n	(P-16; A-8600) (E-305)	8100.1774		(P-16; A-8600) (E-305)
8010.390	n	(P-16; A-8600) (E-305)	8100.1776		(P-16; A-8600) (E-305)
8010.400	n	(P-16; A-8600) (E-305)	8100.1778		(P-16; A-8600) (E-305)
8010.410	n	(P-16; A-8600) (E-305)	8100.1780		(P-16; A-8600) (E-305)
8010.420	n	(P-16; A-8600) (E-305)	8100.1782		(P-16; A-8600) (E-305)
8010.430	n	(P-16; A-8600) (E-305)	8100.1784		(P-16; A-8600) (E-305)
8010.440	n	(P-16; A-8600) (E-305)	8100.1786		(P-16; A-8600) (E-305)
8010.450	n	(P-16; A-8600) (E-305)	8100.1788		(P-16; A-8600) (E-305)
8010.460	n	(P-16; A-8600) (E-305)	8100.1790		(P-16; A-8600) (E-305)
8010.470	n	(P-16; A-8600) (E-305)	8100.1792		(P-16; A-8600) (E-305)
8010.480	n	(P-16; A-8600) (E-305)	8100.1794		(P-16; A-8600) (E-305)
8010.490	n	(P-16; A-8600) (E-305)	8100.1796		(P-16; A-8600) (E-305)
8010.500	n	(P-16; A-8600) (E-305)	8100.1798		(P-16; A-8600) (E-305)
8010.510	n	(P-16; A-8600) (E-305)	8100.1800		(P-16; A-8600) (E-305)
8010.520	n	(P-16; A-8600) (E-305)	8100.1802		(P-16; A-8600) (E-305)
8010.530	n	(P-16; A-8600) (E-305)	8100.1804		(P-16; A-8600) (E-305)
8010.540	n	(P-16; A-8600) (E-305)	8100.1806		(P-16; A-8600) (E-305)
8010.550	n	(P-16; A-8600) (E-305)	8100.1808		(P-16; A-8600) (E-305)
8010.560	n	(P-16; A-8600) (E-305)	8100.1810		(P-16; A-8600) (E-305)
8010.570	n	(P-16; A-8600) (E-305)	8100.1812		(P-16; A-8600) (E-305)
8010.580	n	(P-16; A-8600) (E-305)	8100.1814		(P-16; A-8600) (E-305)
8010.590	n	(P-16; A-8600) (E-305)	8100.1816		(P-16; A-8600) (E-305)
8010.600	n	(P-16; A-8600) (E-305)	8100.1818		(P-16; A-8600) (E-305)
8010.610	n	(P-16; A-8600) (E-305)	8100.1820		(P-16; A-8600) (E-305)
8010.620	n	(P-16; A-8600) (E-305)	8100.1822		(P-16; A-8600) (E-305)
8010.630	n	(P-16; A-8600) (E-305)	8100.1824		(P-16; A-8600) (E-305)
8010.640	n	(P-16; A-8600) (E-305)	8100.1826		(P-16; A-8600) (E-305)
8010.650	n	(P-16; A-8600) (E-305)	8100.1828		(P-16; A-8600) (E-305)
8010.660	n	(P-16; A-8600) (E-305)	8100.1830		(P-16; A-8600) (E-305)
8010.670	n	(P-16; A-8600) (E-305)	8100.1832		(P-16; A-8600) (E-305)
8010.680	n	(P-16; A-8600) (E-305)	8100.1834		(P-16; A-8600) (E-305)
8010.690	n	(P-16; A-8600) (E-305)	8100.1836		(P-16; A-8600) (E-305)
8010.700	n	(P-16; A-8600) (E-305)	8100.1838		(P-16; A-8600) (E-305)
8010.710	n	(P-16; A-8600) (E-305)	8100.1840		(P-16; A-8600) (E-305)
8010.720	n	(P-16; A-8600) (E-305)	8100.1842		(P-16; A-8600) (E-305)
8010.730	n	(P-16; A-8600) (E-305)	8100.1844		(P-16; A-8600) (E-305)
8010.740	n	(P-16; A-8600) (E-305)	8100.1846		(P-16; A-8600) (E-305)
8010.750	n	(P-16; A-8600) (E-305)	8100.1848		(P-16; A-8600) (E-305)
8010.760	n	(P-16; A-8600) (E-305)	8100.1850		(P-16; A-8600) (E-305)
8010.770	n	(P-16; A-8600) (E-305)	8100.1852		(P-16; A-8600) (E-305)
8010.780	n	(P-16; A-8600) (E-305)	8100.1854		(P-16; A-8600) (E-305)
8010.790	n	(P-16; A-8600) (E-305)	8100.1856		(P-16; A-8600) (E-305)
8010.800	n	(P-16; A-8600) (E-305)	8100.1858		(P-16; A-8600) (E-305)
8010.810	n	(P-16; A-8600) (E-305)	8100.1860		(P-16; A-8600) (E-305)
8010.820	n	(P-16; A-8600) (E-305)	8100.1862		(P-16; A-8600) (E-305)
8010.830	n	(P-16; A-8600) (E-305)	8100.1864		(P-16; A-8600) (E-305)
8010.840	n	(P-16; A-8600) (E-305)	8100.1866		(P-16; A-8600) (E-305)
8010.850	n	(P-16; A-8600) (E-305)	8100.1868		(P-16; A-8600) (E-305)
8010.860	n	(P-16; A-8600) (E-305)	8100.1870		(P-16; A-8600) (E-305)
8010.870	n	(P-16; A-8600) (E-305)	8100.1872		(P-16; A-8600) (E-305)
8010.880	n	(P-16; A-8600) (E-305)	8100.1874		(P-16; A-8600) (E-305)
8010.890	n	(P-16; A-8600) (E-305)	8100.1876		(P-16; A-8600) (E-305)
8010.900	n	(P-16; A-8600) (E-305)	8100.1878		(P-16; A-8600) (E-305)
8010.910	n	(P-16; A-8600) (E-305)	8100.1880		(P-16; A-8600) (E-305)
8010.920	n	(P-16; A-8600) (E-305)	8100.1882		(P-16; A-8600) (E-305)
8010.930	n	(P-16; A-8600) (E-305)	8100.1884		(P-16; A-8600) (E-305)
8010.940	n	(P-16; A-8600) (E-305)	8100.1886		(P-16; A-8600) (E-305)
8010.950	n	(P-16; A-8600) (E-305)	8100.1888		(P-16; A-8600) (E-305)
8010.960	n	(P-16; A-8600) (E-305)	8100.1890		(P-16; A-8600) (E-305)
8010.970	n	(P-16; A-8600) (E-305)	8100.1892		(P-16; A-8600) (E-305)
8010.980	n	(P-16; A-8600) (E-305)	8100.1894		(P-16; A-8600) (E-305)
8010.990	n	(P-16; A-8600) (E-305)	8100.1896		(P-16; A-8600) (E-305)
8011.000	n	(P-16; A-8600) (E-305)	8100.1898		(P-16; A-8600) (E-305)
8011.010	n	(P-16; A-8600) (E-305)	8100.1900		(P-16; A-8600) (E-305)
8011.020	n	(P-16; A-8600) (E-305)	8100.1902		(P-16; A-8600) (E-305)
8011.030	n	(P-16; A-8600) (E-305)	8100.1904		(P-16; A-8600) (E-305)
8011.040	n	(P-16; A-8600) (E-305)	8100.1906		(P-16; A-8600) (E-305)
8011.050	n	(P-16; A-8600) (E-305)	8100.1908		(P-16; A-8600) (E-305)
8011.060	n	(P-16; A-8600) (E-305)	8100.1910		(P-16; A-8600) (E-305)
8011.070	n	(P-16; A-8600) (E-305)	8100.1912		(P-16; A-8600) (E-305)
8011.080	n	(P-16; A-8600) (E-305)	8100.1914		(P-16; A-8600) (E-305)
8011.090	n	(P-16; A-8600) (E-305)	8100.1916		(P-16; A-8600) (E-305)
8011.					

TITLE 59 (CONTD)			TITLE 62 (CONTD)		
119-1100	n	(P-13377/89; W-3696)	200-202	n	(P-18061/89; A-3503)
119-1105	n	(P-13377/89; W-3696)	200-203	n	(P-18061/89; A-3503)
130-10	am	(P-17744) (E-18100)	200-204	n	(P-18061/89; A-3503)
130-11	n	(P-17744)	200-205	n	(P-18061/89; A-3503)
130-15	am	(P-17744)	200-206	n	(P-18061/89; A-3503)
130-20	am	(P-17744)	200-300	n	(P-18061/89; A-3503)
130-30	am	(P-17744) (E-18100)	200-301	n	(P-18061/89; A-3503)
130-40	am	(P-17744) (E-18100)	200-302	n	(P-18061/89; A-3503)
130-50	am	(P-17744) (E-18100)	200-400	n	(P-18061/89; A-3503)
130-51	am	(P-17744)	200-401	n	(P-18061/89; A-3503)
130-60	am	(P-17744) (E-18100)	200-402	n	(P-18061/89; A-3503)
130-70	am	(P-17744) (E-18100)	200-500	n	(P-18061/89; A-3503)
130-80	am	(P-17744) (E-18100)	200-501	n	(P-18061/89; A-3503)
130-90	r	(P-17744) (E-18100)	200-502	n	(P-18061/89; A-3503)
130-100	am	(P-17744) (E-18100)	200-504	n	(P-18061/89; A-3503)
130-110	am	(P-17744) (E-18100)	200-505	n	(P-18061/89; A-3503)
130-120	am	(P-17744) (E-18100)	200-600	n	(P-18061/89; A-3503)
130-130	am	(P-17744) (E-18100)	200-601	n	(P-18061/89; A-3503)
130-140	am	(P-17744) (E-18100)	200-602	n	(P-18061/89; A-3503)
130-150	am	(P-17744) (E-18100)	200-603	n	(P-18061/89; A-3503)
130-160	am	(P-17744) (E-18100)	200-604	n	(P-18061/89; A-3503)
130-170	am	(P-17744) (E-18100)	200-701	n	(P-18061/89; A-3503)
130-180	am	(P-17744) (E-18100)	200-800	n	(P-18061/89; A-3503)
130-190	am	(P-17744) (E-18100)	200-801	n	(P-18061/89; A-3503)
130-200	am	(P-17744) (E-18100)	200-802	n	(P-18061/89; A-3503)
130-210	am	(P-17744) (E-18100)	200-803	n	(P-18061/89; A-3503)
130-220	am	(P-17744) (E-18100)	200-804	n	(P-18061/89; A-3503)
130-230	am	(P-17744) (E-18100)	200-805	n	(P-18061/89; A-3503)
130-240	am	(P-17744) (E-18100)	200-806	n	(P-18061/89; A-3503)
130-250	am	(P-17744) (E-18100)	200-807	n	(P-18061/89; A-3503)
130-Tb.A	am	(P-17744) (E-18100)	200-808	n	(P-18061/89; A-3503)
130-Tb.B	am	(P-17744) (E-18100)	200-809	n	(P-18061/89; A-3503)
301-10	am	(P-1708; A-17964)	200-810	n	(P-18061/89; A-3503)
301-20	am	(P-1708; A-17964)	200-900	n	(P-18061/89; A-3503)
301-30	am	(P-1708; A-17964)	200-901	n	(P-18061/89; A-3503)
301-40	am	(P-1708; A-17964)	200-902	n	(P-18061/89; A-3503)
301-50	am	(P-1708; A-17964)	200-903	n	(P-18061/89; A-3503)
301-60	am	(P-1708; A-17964)	200-904	n	(P-18061/89; A-3503)
			200-905	n	(P-18061/89; A-3503)
			200-906	n	(P-18061/89; A-3503)
			200-907	n	(P-18061/89; A-3503)
			200-908	n	(P-18061/89; A-3503)
			200-909	n	(P-18061/89; A-3503)
			200-910	n	(P-18061/89; A-3503)
			200-911	n	(P-18061/89; A-3503)
			200-912	n	(P-18061/89; A-3503)
			200-913	n	(P-18061/89; A-3503)
			200-914	n	(P-18061/89; A-3503)
			200-915	n	(P-18061/89; A-3503)
			200-916	n	(P-18061/89; A-3503)
			200-917	n	(P-18061/89; A-3503)
			200-918	n	(P-18061/89; A-3503)
			200-919	n	(P-18061/89; A-3503)
			200-920	n	(P-18061/89; A-3503)
			200-921	n	(P-18061/89; A-3503)
			200-922	n	(P-18061/89; A-3503)
			200-923	n	(P-18061/89; A-3503)
			200-924	n	(P-18061/89; A-3503)
			200-925	n	(P-18061/89; A-3503)
			200-926	n	(P-18061/89; A-3503)
			200-927	n	(P-18061/89; A-3503)
			200-928	n	(P-18061/89; A-3503)
			200-929	n	(P-18061/89; A-3503)
			200-930	n	(P-18061/89; A-3503)
			200-931	n	(P-18061/89; A-3503)
			200-932	n	(P-18061/89; A-3503)
			200-933	n	(P-18061/89; A-3503)
			200-934	n	(P-18061/89; A-3503)
			200-935	n	(P-18061/89; A-3503)
			200-936	n	(P-18061/89; A-3503)
			200-937	n	(P-18061/89; A-3503)
			200-938	n	(P-18061/89; A-3503)
			200-939	n	(P-18061/89; A-3503)
			200-940	n	(P-18061/89; A-3503)
			200-941	n	(P-18061/89; A-3503)
			200-942	n	(P-18061/89; A-3503)
			200-943	n	(P-18061/89; A-3503)
			200-944	n	(P-18061/89; A-3503)
			200-945	n	(P-18061/89; A-3503)
			200-946	n	(P-18061/89; A-3503)
			200-947	n	(P-18061/89; A-3503)
			200-948	n	(P-18061/89; A-3503)
			200-949	n	(P-18061/89; A-3503)
			200-950	n	(P-18061/89; A-3503)
			200-951	n	(P-18061/89; A-3503)
			200-952	n	(P-18061/89; A-3503)
			200-953	n	(P-18061/89; A-3503)
			200-954	n	(P-18061/89; A-3503)
			200-955	n	(P-18061/89; A-3503)
			200-956	n	(P-18061/89; A-3503)
			200-957	n	(P-18061/89; A-3503)
			200-958	n	(P-18061/89; A-3503)
			200-959	n	(P-18061/89; A-3503)
			200-960	n	(P-18061/89; A-3503)
			200-961	n	(P-18061/89; A-3503)
			200-962	n	(P-18061/89; A-3503)
			200-963	n	(P-18061/89; A-3503)
			200-964	n	(P-18061/89; A-3503)
			200-965	n	(P-18061/89; A-3503)
			200-966	n	(P-18061/89; A-3503)
			200-967	n	(P-18061/89; A-3503)
			200-968	n	(P-18061/89; A-3503)
			200-969	n	(P-18061/89; A-3503)
			200-970	n	(P-18061/89; A-3503)
			200-971	n	(P-18061/89; A-3503)
			200-972	n	(P-18061/89; A-3503)
			200-973	n	(P-18061/89; A-3503)
			200-974	n	(P-18061/89; A-3503)
			200-975	n	(P-18061/89; A-3503)
			200-976	n	(P-18061/89; A-3503)
			200-977	n	(P-18061/89; A-3503)
			200-978	n	(P-18061/89; A-3503)
			200-979	n	(P-18061/89; A-3503)
			200-980	n	(P-18061/89; A-3503)
			200-981	n	(P-18061/89; A-3503)
			200-982	n	(P-18061/89; A-3503)
			200-983	n	(P-18061/89; A-3503)
			200-984	n	(P-18061/89; A-3503)
			200-985	n	(P-18061/89; A-3503)
			200-986	n	(P-18061/89; A-3503)
			200-987	n	(P-18061/89; A-3503)
			200-988	n	(P-18061/89; A-3503)
			200-989	n	(P-18061/89; A-3503)
			200-990	n	(P-18061/89; A-3503)
			200-991	n	(P-18061/89; A-3503)
			200-992	n	(P-18061/89; A-3503)
			200-993	n	(P-18061/89; A-3503)
			200-994	n	(P-18061/89; A-3503)
			200-995	n	(P-18061/89; A-3503)
			200-996	n	(P-18061/89; A-3503)
			200-997	n	(P-18061/89; A-3503)
			200-998	n	(P-18061/89; A-3503)
			200-999	n	(P-18061/89; A-3503)
			200-1000	n	(P-18061/89; A-3503)
			200-1001	n	(P-18061/89; A-3503)
			200-1002	n	(P-18061/89; A-3503)
			200-1003	n	(P-18061/89; A-3503)
			200-1004	n	(P-18061/89; A-3503)
			200-1005	n	(P-18061/89; A-3503)
			200-1006	n	(P-18061/89; A-3503)
			200-1007	n	(P-18061/89; A-3503)
			200-1008	n	(P-18061/89; A-3503)
			200-1009	n	(P-18061/89; A-3503)
			200-1010	n	(P-18061/89; A-3503)
			200-1011	n	(P-18061/89; A-3503)
			200-1012	n	(P-18061/89; A-3503)
			200-1013	n	(P-18061/89; A-3503)
			200-1014	n	(P-18061/89; A-3503)
			200-1015	n	(P-18061/89; A-3503)
			200-1016	n	(P-18061/89; A-3503)
			200-1017	n	(P-18061/89; A-3503)
			200-1018	n	(P-18061/89; A-3503)
			200-1019	n	(P-18061/89; A-3503)
			200-1020	n	(P-18061/89; A-3503)
			200-1021	n	(P-18061/89; A-3503)

TITLE 68 (CONT'D)

n	(P-7378)	n	1450.55	(P-19515)	am	280.35	(P-18359)
am	(P-7378)	am	1450.60	(P-19515)	am	285.1102	(P-17139)
am	(P-7378)	am	1450.70	(P-19515)	am	285.1106	(P-17139)
n	(P-7378)	am	1450.80	(P-19515)	am	290.1203	(P-18649/89; A-5757)
am	(P-7378)	am	1450.90	(P-19515)	am	290.1204	(P-18649/89; A-5757)
n	(P-7378)	am	1450.100	(P-19515)	am	290.1205	(P-18649/89; A-5757)
am	(P-7378)	am	1450.140	(P-19515)	am	290.1206	(P-18649/89; A-5757)
n	(P-7378)	am	1450.150	(P-19515)	am	290.1207	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	am	1450.170	(P-19515)	am	290.1209	(P-18649/89; A-5757)
n	(P-14236/89; A-10035)	am	1450.180	(P-19515)	am	290.1210	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	am	1450.185	(P-19515)	am	290.1211	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	am	1450.210	(P-19515)	am	290.1212	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	r	1450.215	(P-19515)	am	290.1213	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	am	1450.220	(P-19515)	am	290.1214	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	am	1450.230	(P-19515)	am	290.1215	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	#	1450.240	(P-19515)	am	290.1216	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	am	1450.250	(P-19515)	am	290.1217	(P-18649/89; A-5757)
am	(P-14236/89; A-10035)	#	1450.260	(P-19515)	am	290.1218	(P-18649/89; A-5757)
n	(P-14236/89; A-10035)	r	1450.270	(P-19515)	am	290.1219	(P-18649/89; A-5757)
n	(P-2444; A-14128)	am	1450.275	(P-19515)	am	290.1220	(P-18649/89; A-5757)
am	(P-2444; A-14128)	am	1450.280	(P-19515)	am	290.1221	(P-18649/89; A-5757)
am	(P-2444; A-14128)	am	1450.290	(P-19515)	am	290.1222	(P-18649/89; A-5757)
am	(P-2444; A-14128)	am	1480.10	(P-14291)	am	290.1223	(P-18649/89; A-5757)
am	(P-17432)	am	1480.20	(P-14291)	am	290.1224	(P-18649/89; A-5757)
am	(P-14004/89; A-701)	am	1480.30	(P-14291)	am	290.1225	(P-18649/89; A-5757)
am	(P-7346)	am	1480.40	(P-14291)	am	290.1226	(P-18649/89; A-5757)
am	(P-7346)	am	1480.45	(P-14291)	am	290.1227	(P-18649/89; A-5757)
am	(P-7346)	am	1480.50	(P-14291)	am	290.1228	(P-18649/89; A-5757)
am	(P-7346)	am	1480.60	(P-14291)	am	290.1229	(P-18649/89; A-5757)
am	(P-7346)	#	1480.110	(P-14291)	am	290.1230	(P-18649/89; A-5757)
am	(P-7346)	n	1480.120	(P-14291)	am	290.1231	(P-18649/89; A-5757)
am	(P-7346)	n	1480.130	(P-14291)	am	290.1232	(P-18649/89; A-5757)
am	(P-7346)	n	1480.140	(P-14291)	am	290.1233	(P-18649/89; A-5757)
am	(P-7346)	n	1480.150	(P-14291)	am	290.1234	(P-18649/89; A-5757)
am	(P-7346)	n	1480.160	(P-14291)	am	290.1235	(P-18649/89; A-5757)
am	(P-7346)	n	1480.170	(P-14291)	am	290.1236	(P-18649/89; A-5757)
am	(P-7346)	n	1480.180	(P-14291)	am	290.1237	(P-18649/89; A-5757)
am	(P-7346)	n	1480.190	(P-14291)	am	290.1238	(P-18649/89; A-5757)
am	(P-7346)	n	1480.200	(P-14291)	am	290.1239	(P-18649/89; A-5757)
am	(P-7346)	n	1480.210	(P-14291)	am	290.1240	(P-18649/89; A-5757)
am	(P-7346)	n	1480.220	(P-14291)	am	290.1241	(P-18649/89; A-5757)

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am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	280.35	(P-18359)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	285.1102	(P-17139)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	285.1106	(P-17139)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1203	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1204	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1205	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1206	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1207	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1208	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1209	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1210	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1211	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1212	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1213	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1214	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1215	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1216	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1217	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1218	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1219	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1220	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1221	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1222	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1223	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1224	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1225	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1226	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1227	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1228	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1229	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1230	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1231	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1232	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1233	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1234	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1235	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1236	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1237	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1238	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1239	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1240	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1241	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1242	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1243	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1244	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1245	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1246	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1247	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1248	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1249	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1250	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1251	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1252	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1253	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1254	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1255	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1256	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1257	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.50	(P-15640/89; RC-2131; A-7228)	am	290.1258	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.60	(P-15640/89; RC-2131; A-7228)	am	290.1259	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.70	(P-15640/89; RC-2131; A-7228)	am	290.1260	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.80	(P-15640/89; RC-2131; A-7228)	am	290.1261	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.90	(P-15640/89; RC-2131; A-7228)	am	290.1262	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.10	(P-15640/89; RC-2131; A-7228)	am	290.1263	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.20	(P-15640/89; RC-2131; A-7228)	am	290.1264	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.30	(P-15640/89; RC-2131; A-7228)	am	290.1265	(P-18649/89; A-5757)
am	(P-15640/89; RC-2131; A-7228)	n	2005.40	(P-15640/89; RC-2131; A-7228)	am	290.1266	(P-18649/89; A-5757)
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[illegible]

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697. Ap.B	am	(P-16779)	790.2260	(P-4437; A-11988) (E-4620)	am
710.210	am	(P-15246)		(E-9556) (P-9357; A-17298)	am
725.20	am	(P-14306/89; A-864)	790.2380	(P-4437; A-11988) (E-4620)	am
725.44	am	(P-14306/89; A-864)	790.2460	(P-4437; A-11988) (E-4620)	am
725.70	am	(P-14306/89; A-864)	790.2462	(P-4437; A-11988) (E-4620)	am
725.71	am	(P-14306/89; A-864)	790.2465	(P-4437; A-11988) (E-4620)	am
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790.560	am	(P-5050)	790.2500	(P-4437; A-11988) (E-4620)	am
790.80	am	(P-4437; A-11988) (E-4620)	790.2540	(P-4437; A-11988) (E-4620)	am
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790.340	am	(E-9556) (P-9357; A-17298)	790.2580	(P-4437; A-11988) (E-4620)	am
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	am	(P-4437; A-11988) (E-4620)	790.2603	A-11988) (E-4620)	am
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790.620	am	(E-9556) (P-9357; A-17298)	790.2614	(P-4437; A-11988) (E-4620)	am
790.721	am	(P-16910/89; A-3184) (P-4437;	790.2617	(P-13133) (E-13325) (P-18457)	am
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790.760	n	(E-9556) (P-9357; A-17298)	790.2645	(P-18457) (E-18588)	n
790.788	am	(E-9556) (P-9357; A-17298)	790.2655	(P-18457) (E-18588)	n
790.830	n	(E-9556) (P-9357; A-17298)	790.2660	(P-18457) (E-18588)	r
790.860	am	(P-4437; A-11988) (E-4620)	790.2661	(P-4437; A-11988) (E-4620)	n
	am	(E-9556) (P-9357; A-17298)		(E-9556) (P-9357; A-17298)	am
790.900	am	(P-4437; A-11988) (E-4620)	790.2662	(P-4437; A-11988) (E-4620)	am
790.910	am	(P-4437; A-11988) (E-4620)		(E-9556) (P-9357; A-17298)	am
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790.1127	am	(P-18457) (E-18588)		(E-9556) (P-9357; A-17298)	am
790.1131	am	(P-18457) (E-18588)		(E-9556) (P-9357; A-17298)	am
790.1140	am	(P-16910/89; A-3184)	790.2820	(E-9556) (P-9357; A-17298)	am
790.1200	am	(P-1220; A-8154) (E-1505)	790.2860	(E-9556) (P-9357; A-17298)	am
790.1300	am	(P-4437; A-11988) (E-4620)	790.2902	(P-16910/89; A-3184)	n
790.1390	am	(P-4437; A-11988) (E-4620)		(E-9556) (P-9357; A-17298)	am
790.1420	am	(P-18457) (E-18588)	790.2902	(E-9556) (P-9357; A-17298)	am
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790.1460	am	(E-9556) (P-9357; A-17298)	790.2915	(P-16910/89; A-3184)	am
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790.1577	am	(E-9556) (P-9357; A-17298)	790.2980	(E-9556) (P-9357; A-17298)	am
790.1660	am	(P-4437; A-11988) (E-4620)	790.3020	(P-4437; A-11988) (E-4620)	am
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	am	(P-16910/89; A-3184) (P-4437;	790.3032	(P-4437; A-11988) (E-4620)	am
	am	A-11988) (E-4620)	790.3033	(P-4437; A-11988) (E-4620)	am
790.1700	am	(P-4437; A-11988) (E-4620)	790.3049	(P-4437; A-11988) (E-4620)	am
790.1708	am	(E-9556) (P-9357; A-17298)	790.3051	(P-4437; A-11988) (E-4620)	am
790.1719	am	(E-9556) (P-9357; A-17298)	790.3054	(P-4437; A-11988) (E-4620)	am
790.1740	am	(P-4437; A-11988) (E-4620)	790.3140	(P-4437; A-11988) (E-4620)	am
790.1858	am	(P-4437; A-11988) (E-4620)	790.3220	(E-9556) (P-9357; A-17298)	am
790.1950	n	(P-4437; A-11988) (E-4620)		(P-18457) (E-18588)	am
790.1950	am	(P-18457) (E-18588)	790.3300	(P-4437; A-11988) (E-4620)	am
790.1960	am	(E-9556) (P-9357; A-17298)	790.3315	(P-13133) (E-13325)	am
790.2060	am	(P-18457) (E-18588)	790.3335	(E-9556) (P-9357; A-17298)	am
790.2097	am	(P-1220; A-8154) (E-1505)		(P-18457) (E-18588)	am
	am	(P-16910/89; A-3184) (P-4437;	790.3340	(P-1220; A-8154) (E-1505)	am
	am	A-11988) (E-4620)		(E-9556) (P-9357; A-17298)	n
790.2140	am	(P-1220; A-8154) (E-1505)	790.3350	(P-18457) (E-18588)	am
	am	(E-9556) (P-9357; A-17298)	790.3420	(P-16910/89; A-3184)	am
790.2155	n	(E-9556) (P-9357; A-17298)	790.3437	(P-1220; A-8154) (E-1505)	am
	am	(E-9556) (P-9357; A-17298)		(E-9556) (P-9357; A-17298)	am

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790.3440	am	(P-16910/89; A-3184)	790.5500	(P-9357; A-17298)	am
790.3492	am	(P-4437; A-11988) (E-4620)	790.5560	(E-9556) (P-9357; A-17298)	am
790.3540	am	(P-4437; A-11988) (E-4620)	790.5620	(P-16910/89; A-3184) (P-4437;	am
790.3620	am	(P-16910/89; A-3184) (E-9556)		A-11988) (E-4620) (E-9556)	am
	am	(P-9357; A-17298)		(P-9357; A-17298)	am
790.3740	am	(P-4437; A-11988) (E-4620)	790.5720	(P-16910/89; A-3184)	am
790.3942	n	(P-13133) (E-13325)	790.5740	(P-4437; A-11988) (E-4620)	am
790.3990	am	(P-1220; A-8154) (E-1505)	790.5792	(P-13133) (E-13325)	am
	am	(P-4437; A-11988) (E-4620)	790.5820	(P-4437; A-11988) (E-4620)	am
	n	(P-13133) (E-13325) (P-18457)		(E-9556) (P-9357; A-17298)	am
	am	(E-18588)	790.5830	(P-1220; A-8154) (E-1505)	am
790.3940	am	(P-4437; A-11988) (E-4620)	790.5837	(P-4437; A-11988) (E-4620)	r
790.3945	am	(P-4437; A-11988) (E-4620)	790.5860	(P-4437; A-11988) (E-4620)	am
790.4040	am	(E-9556) (P-9357; A-17298)	790.5872	(P-16910/89; A-3184) (P-4437;	am
790.4060	am	(P-4437; A-11988) (E-4620)		A-11988) (E-4620)	am
790.4140	am	(E-9556) (P-9357; A-17298)	790.5900	(P-4437; A-11988) (E-4620)	am
790.4180	am	(P-4437; A-11988) (E-4620)		(E-9556) (P-9357; A-17298)	am
790.4220	am	(P-4437; A-11988) (E-4620)	790.5940	(P-4437; A-11988) (E-4620)	am
790.4384	n	(P-4437; A-11988) (E-4620)		(P-13133) (E-13325)	am
790.4384	am	(P-18457) (E-18588)	790.6140	(P-4437; A-11988) (E-4620)	am
790.4396	am	(P-16910/89; A-3184) (P-4437;	790.6180	(P-4437; A-11988) (E-4620)	am
	am	A-11988) (E-4620) (E-9556)		(E-9556) (P-9357; A-17298)	am
	am	(P-9357; A-17298)	790.6275	(P-16910/89; A-3184)	am
790.4420	am	(E-9556) (P-9357; A-17298)	790.6277	(E-9556) (P-9357; A-17298)	am
790.4430	am	(P-4437; A-11988) (E-4620)	790.6340	(P-16910/89; A-3184)	am
790.4460	am	(E-9556) (P-9357; A-17298)	790.6370	(P-16910/89; A-3184) (E-9556)	am
790.4580	am	(P-4437; A-11988) (E-4620)		(P-9357; A-17298)	am
790.4600	am	(P-4437; A-11988) (E-4620)	790.6430	(P-18457) (E-18588)	n
790.4665	am	(P-4437; A-11988) (E-4620)	790.6435	(P-1220; A-8154) (E-1505)	am
790.4667	n	(P-4437; A-11988) (E-4620)	790.6450	(E-9556) (P-9357; A-17298)	am
790.4667	am	(P-16910/89; A-3184)	790.6452	(P-16910/89; A-3184)	am
790.4670	am	(P-4437; A-11988) (E-4620)	790.6456	(P-16910/89; A-3184)	am
	am	(P-16910/89; A-3184)	790.6460	(E-9556) (P-9357; A-17298)	am
790.4680	am	(P-16910/89; A-3184)	790.6500	(E-9556) (P-9357; A-17298)	am
790.4700	am	(P-4437; A-11988) (E-4620)	790.6540	(E-9556) (P-9357; A-17298)	am
790.4720	am	(P-1220; A-8154) (E-1505)	790.6570	(P-4437; A-11988) (E-4620)	am
790.4728	n	(P-4437; A-11988) (E-4620)	790.6580	(P-4437; A-11988) (E-4620)	am
790.4728	am	(P-16910/89; A-3184) (P-18457)		(P-13133) (E-13325)	am
	am	(E-18588)	790.6610	(P-4437; A-11988) (E-4620)	am
790.4725	n	(P-4437; A-11988) (E-4620)	790.6620	(P-4437; A-11988) (E-4620)	am
790.4725	am	(P-18457) (E-18588)	790.6621	(P-4437; A-11988) (E-4620)	r
790.4728	n	(P-4437; A-11988) (E-4620)	790.6670	(P-13133) (E-13325)	am
790.4728	am	(P-16910/89; A-3184) (E-9556)		(P-4437; A-11988) (E-4620)	am
790.4740	am	(P-9357; A-17298)	790.6780	(P-4437; A-11988) (E-4620)	am
	am	(E-9556) (P-9357; A-17298)	790.6820	(P-1220; A-8154) (E-1505)	am
790.4860	am	(E-9556) (P-9357; A-17298)	790.6875	(P-13133) (E-13325)	am
790.4940	am	(E-9556) (P-9357; A-17298)		(P-13133) (E-13325)	am
790.5020	am	(P-4437; A-11988) (E-4620)	790.6895	(P-4437; A-11988) (E-4620)	am
790.5030	n	(P-18457) (E-18588)	790.6940	(P-4437; A-11988) (E-4620)	am
790.5060	am	(P-4437; A-11988) (E-4620)	790.6980	(P-4437; A-11988) (E-4620)	am
790.5100	am	(E-9556) (P-9357; A-17298)	790.7100	(P-4437; A-11988) (E-4620)	am
790.5140	am	(P-4437; A-11988) (E-4620)	790.7120	(P-4437; A-11988) (E-4620)	am
	am	(E-9556) (P-9357; A-17298)	790.7130	(P-13133) (E-13325)	am
	am	(E-9556) (P-9357; A-17298)	790.7140	(P-4437; A-11988) (E-4620)	am
790.5180	am	(P-1220; A-8154) (E-1505)	790.7160	(P-4437; A-11988) (E-4620)	n
790.5220	am	(P-4437; A-11988) (E-4620)	790.7180	(P-4437; A-11988) (E-4620)	am
790.5300	am	(E-9556) (P-9357; A-17298)	790.7229	(P-18457) (E-18588)	am
	am	(P-18457) (E-18588)	790.7260	(P-13133) (E-13325) (P-18457)	am
790.5312	am	(P-1220; A-8154) (E-1505)		(E-9556) (P-9357; A-17298)	am
790.5320	am	(E-9556) (P-9357; A-17298)	790.7265	(P-13133) (E-13325) (P-18457)	am
	am	(P-4437; A-11988) (E-4620)	790.7278	(E-18588)	am
790.5340	am	(P-4437; A-11988) (E-4620)		(P-4437; A-11988) (E-4620)	am
790.5420	am	(P-4437; A-11988) (E-4620)	790.7278	(P-4437; A-11988) (E-4620)	am
	am	(E-9556) (P-9357; A-17298)		(E-9556) (P-9357; A-17298)	am

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2510.55	am	(P-18198/89; A-2078)	1100.80
2510.56	am	(P-18198/89; A-2078)	1100.90
2510.57	am	(P-17428)	1100.100
2530. Ap.B	am	(P-19005/89; A-10337)	1105.10
3000.100	am	(P-19005/89; A-10337)	1105.20
3000.200	am	(P-19005/89; A-10337)	1105.30
3000.210	am	(P-19005/89; A-10337)	1105.40
3000.220	am	(P-19005/89; A-10337)	1105.50
3000.230	am	(P-19005/89; A-10337)	1105.60
3000. Ap.B	am	(P-19005/89; A-10337)	1105.80
			1105.100
			1105.110
			1105.120
			1105.130
			1105.140
			1105.160
			1105.170
			1105.220
			1105.230
			1110.40
			1110.50
			1110.60
			1110.70
			1110.80
			1110.90
			1110.100
			1110.110
			1110.140
			1110.150
			1110.160
			1110.170
			1110.180
			1120.20
			1120.30
			1120.40
			1120.50
			1120.60
			1120.70
			1125.40
			1200.10
			1200.20
			1200.30
			1200.90
			1210.10
			1210.30
			1210.40
			1210.50
			1210.60
			1210.70
			1210.100
			1210.110
			1210.120
			1210.140
			1210.150
			1210.160
			1210.170
			1210.180
			1210.190
			1220.10
			1220.30
			1220.50
			1220.80
			1230.10
			1230.20
			1230.30
			1230.40
			1230.50
			1230.60
			1230.70
			1230.80
			1230.90
			1230.100
			1230.110
			1230.120
			1230.130
			1230.140
			1230.150
			1230.160
			1230.170
			1230.180
			1230.190
			1230.200
			1230.210
			1230.220
			1230.230
			1230.240
			1230.250
			1230.260
			1230.270
			1230.280
			1230.290
			1230.300
			1230.310
			1230.320
			1230.330
			1230.340
			1230.350
			1230.360
			1230.370
			1230.380
			1230.390
			1230.400
			1230.410
			1230.420
			1230.430
			1230.440
			1230.450
			1230.460
			1230.470
			1230.480
			1230

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TITLE 77 (CONT'D)					
935.80	am			1160.520	r
935.81		(P-2498; A-12633)	(P-17280/89; A-7183)	1160.520	r
935.85	n	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.530	r
935.90	am	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.610	r
935.100	am	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.620	r
935.105	n	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.630	r
935.110	am	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.640	r
935.120	am	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.650	r
935.130	am	(P-2498; A-12633)	(P-17280/89; A-7183)	1160.710	r
1130.110	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.720	r
1130.120	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.730	r
1130.130	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.740	r
1130.140	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.750	r
1130.150	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.760	r
1130.150	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.210	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.220	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.310	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.410	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.510	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.520	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.530	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.540	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.550	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.560	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.570	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.610	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.620	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.630	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.640	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.650	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.660	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.670	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.680	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.710	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.720	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.730	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.740	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.750	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.760	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.770	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.780	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.810	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1130.810	n	(P-17245/89; A-7183)	(P-17280/89; A-7183)	1160.770	r
1150.110	n	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.210	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.220	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.230	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.310	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.320	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.330	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.340	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.420	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.430	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.440	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.440	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.450	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1150.450	r	(P-5580/89; A-5168)	(P-6457/89; A-5175)	2058.312	am
1160.110	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.366	am
1160.120	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.210	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.220	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.230	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.310	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.310	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.410	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.410	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.420	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.430	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.440	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.440	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-5175)	(P-6457/89; A-5175)	2058.405	am
1160.450	r	(P-17280/89; A-517			

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TITLE 80 (CONT'D)	TITLE 83	TITLE 83 (CONT'D)	am	am	am
1230.40	(P-7700; A-19903)	285.2085	n	(P-5229/89; A-6000)	500.335
1230.50	(P-7700; A-19903)	285.2090	n	(P-5229/89; A-6000)	505.10
1230.60	(P-7700; A-19903)	285.2095	n	(P-5229/89; A-6000)	590.10
1230.70	(P-7700; A-19903)	285.2100	n	(P-5229/89; A-6000)	710.1
1230.80	(P-7700; A-19903)	285.2105	n	(P-5229/89; A-6000)	755.10
1230.90	(P-7700; A-19903)	285.2110	n	(P-5229/89; A-6000)	755.25
1230.100	(P-7700; A-19903)	285.2115	n	(P-5229/89; A-6000)	755.105
1230.110	(P-7700; A-19903)	285.2120	n	(P-5229/89; A-6000)	755.110
1230.120	(P-7700; A-19903)	285.2125	n	(P-5229/89; A-6000)	755.115
1230.130	(P-7700; A-19903)	285.2130	n	(P-5229/89; A-6000)	755.120
1230.140	(P-7700; A-19903)	285.2135	n	(P-5229/89; A-6000)	755.200
1230.150	(P-7700; A-19903)	285.2140	n	(P-5229/89; A-6000)	755.205
1230.160	(P-7700; A-19903)	285.2145	n	(P-5229/89; A-6000)	755.210
1230.170	(P-7700; A-19903)	285.2150	n	(P-5229/89; A-6000)	755.215
1230.180	(P-7700; A-19903)	285.2155	n	(P-5229/89; A-6000)	755.220
1230.190	(P-7700; A-19903)	285.2160	n	(P-5229/89; A-6000)	755.225
1230.200	(P-7700; A-19903)	285.2165	n	(P-5229/89; A-6000)	755.230
1230.210	(P-7700; A-19903)	285.2170	n	(P-5229/89; A-6000)	755.235
1230.220	(P-7700; A-19903)	285.2175	n	(P-5229/89; A-6000)	755.240
1230.230	(P-7700; A-19903)	285.2180	n	(P-5229/89; A-6000)	755.245
1230.240	(P-7700; A-19903)	285.2185	n	(P-5229/89; A-6000)	755.250
1230.250	(P-7700; A-19903)	285.2190	n	(P-5229/89; A-6000)	755.255
1230.260	(P-7700; A-19903)	285.2195	n	(P-5229/89; A-6000)	755.260
1230.270	(P-7700; A-19903)	285.2200	n	(P-5229/89; A-6000)	755.265
1230.280	(P-7700; A-19903)	285.2205	n	(P-5229/89; A-6000)	755.270
1230.290	(P-7700; A-19903)	285.2210	n	(P-5229/89; A-6000)	755.275
1230.300	(P-7700; A-19903)	285.2215	n	(P-5229/89; A-6000)	755.280
1230.310	(P-7700; A-19903)	285.2220	n	(P-5229/89; A-6000)	755.285
1230.320	(P-7700; A-19903)	285.2225	n	(P-5229/89; A-6000)	755.290
1230.330	(P-7700; A-19903)	285.2230	n	(P-5229/89; A-6000)	755.295
1230.340	(P-7700; A-19903)	285.2235	n	(P-5229/89; A-6000)	755.300
1230.350	(P-7700; A-19903)	285.2240	n	(P-5229/89; A-6000)	755.305
1230.360	(P-7700; A-19903)	285.2245	n	(P-5229/89; A-6000)	755.310
1230.370	(P-7700; A-19903)	285.2250	n	(P-5229/89; A-6000)	755.315
1230.380	(P-7700; A-19903)	285.2255	n	(P-5229/89; A-6000)	755.320
1230.390	(P-7700; A-19903)	285.2260	n	(P-5229/89; A-6000)	755.325
1230.400	(P-7700; A-19903)	285.2265	n	(P-5229/89; A-6000)	755.330
1230.410	(P-7700; A-19903)	285.2270	n	(P-5229/89; A-6000)	755.335
1230.420	(P-7700; A-19903)	285.2275	n	(P-5229/89; A-6000)	755.340
1230.430	(P-7700; A-19903)	285.2280	n	(P-5229/89; A-6000)	755.345
1230.440	(P-7700; A-19903)	285.2285	n	(P-5229/89; A-6000)	755.350
1230.450	(P-7700; A-19903)	285.2290	n	(P-5229/89; A-6000)	755.355
1230.460	(P-7700; A-19903)	285.2295	n	(P-5229/89; A-6000)	755.360
1230.470	(P-7700; A-19903)	285.2300	n	(P-5229/89; A-6000)	755.365
1230.480	(P-7700; A-19903)	285.2305	n	(P-5229/89; A-6000)	755.370
1230.490	(P-7700; A-19903)	285.2310	n	(P-5229/89; A-6000)	755.375
1230.500	(P-7700; A-19903)	285.2315	n	(P-5229/89; A-6000)	755.380
1230.510	(P-7700; A-19903)	285.2320	n	(P-5229/89; A-6000)	755.385
1230.520	(P-7700; A-19903)	285.2325	n	(P-5229/89; A-6000)	755.390
1230.530	(P-7700; A-19903)	285.2330	n	(P-5229/89; A-6000)	755.395
1230.540	(P-7700; A-19903)	285.2335	n	(P-5229/89; A-6000)	755.400
1230.550	(P-7700; A-19903)	285.2340	n	(P-5229/89; A-6000)	755.405
1230.560	(P-7700; A-19903)	285.2345	n	(P-5229/89; A-6000)	755.410
1230.570	(P-7700; A-19903)	285.2350	n	(P-5229/89; A-6000)	755.415
1230.580	(P-7700; A-19903)	285.2355	n	(P-5229/89; A-6000)	755.420
1230.590	(P-7700; A-19903)	285.2360	n	(P-5229/89; A-6000)	755.425
1230.600	(P-7700; A-19903)	285.2365	n	(P-5229/89; A-6000)	755.430
1230.610	(P-7700; A-19903)	285.2370	n	(P-5229/89; A-6000)	755.435
1230.620	(P-7700; A-19903)	285.2375	n	(P-5229/89; A-6000)	755.440
1230.630	(P-7700; A-19903)	285.2380	n	(P-5229/89; A-6000)	755.445
1230.640	(P-7700; A-19903)	285.2385	n	(P-5229/89; A-6000)	755.450
1230.650	(P-7700; A-19903)	285.2390	n	(P-5229/89; A-6000)	755.455
1230.660	(P-7700; A-19903)	285.2395	n	(P-5229/89; A-6000)	755.460
1230.670	(P-7700; A-19903)	285.2400	n	(P-5229/89; A-6000)	755.465
1230.680	(P-7700; A-19903)	285.2405	n	(P-5229/89; A-6000)	755.470
1230.690	(P-7700; A-19903)	285.2410	n	(P-5229/89; A-6000)	755.475
1230.700	(P-7700; A-19903)	285.2415	n	(P-5229/89; A-6000)	755.480
1230.710	(P-7700; A-19903)	285.2420	n	(P-5229/89; A-6000)	755.485
1230.720	(P-7700; A-19903)	285.2425	n	(P-5229/89; A-6000)	755.490
3000.Ap.A	(P-1548; A-10014)	445.80	n	(P-13129/89; A-626)	1000.70

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TITLE 89 (CONT'D)			TITLE 89 (CONT'D)			TITLE 89 (CONT'D)			TITLE 89 (CONT'D)		
140.545	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.800	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657) (P-12202; A-18015) (E-12278)	144.105	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	147.Tb.A	am	(P-10763/89; A-210) (P-15243) (E-15578)
140.560	am	(P-13178/89; A-2564) (P-13178/89; A-2564)	141.960	am	(P-12714; A-19325) (E-12910) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.125	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	147.Tb.B	am	(P-10763/89; A-210) (P-15243) (E-15578)
140.561	am	(P-13178/89; A-2564) (P-13178/89; A-2564)	141.1000	am	(P-12714; A-19325) (E-12910) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.175	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	148.120	am	(P-10763/89; A-210) (P-15243) (E-15578)
140.562	am	(P-13178/89; A-2564) (P-13178/89; A-2564)	141.1080	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.200	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)			
140.565	r	(P-13963) (E-14184; O-17718) (P-17667/89; A-7141) (P-17667/89; A-7141)	141.1125	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.225	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	148.140	am	(P-5409; O-15614; RC-15618; R-15644; A-15358) (P-11108; A-18499) (E-11392) (P-17436; W-17673) (P-17436; W-17673)
140.566	r	(P-17667/89; A-7141) (P-17667/89; A-7141)	141.1220	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.250	re	(A-7651) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	148.360	am	(P-9827; A-16998) (P-15722) (P-15722) (P-15722)
140.567	r	(P-17667/89; A-7141) (P-17667/89; A-7141)	141.1280	am	(P-12714; A-19325) (E-12910) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.275	am	(A-17988) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	149.50	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.568	am	(P-17667/89; A-7141) (P-17667/89; A-7141)	141.1320	am	(P-12714; A-19325) (E-12910) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.Tb.A	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	160.5	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.569	am	(P-17667/89; A-7141) (P-17667/89; A-7141)	141.1280	am	(P-12714; A-19325) (E-12910) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.Tb.B	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	160.65	n	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.642	am	(P-3019; RC-17693) (E-3241; O-8223; R-9258; RC-17680) (P-17667/89; A-7141) (P-17667/89; A-7141)	141.1320	am	(P-12714; A-19325) (E-12910) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.Tb.C	n	(P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	160.70	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.646	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.1520	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.Tb. D	am	(P-4419; O-15611; R-17768; A-17988) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)			
140.647	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.1640	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	144.Tb. E	am	(P-4419; O-15611; R-17768; A-17988) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	160.100	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.648	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.1880	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.5	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	160.110	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.649	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.2400	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.25	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	160.120	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.650	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.2600	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.50	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	160.132	am	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.652	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.2840	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.75	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	160.136	n	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.655	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.2920	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.100	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	160.138	n	(P-12148; A-18759) (P-12148; A-18759) (P-12148; A-18759)
140.657	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.2960	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.105	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	170.50	r	(P-13124; A-19320) (P-19442) (P-19442)
140.659	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3000	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.125	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	220.600	n	(P-19442) (P-19442) (P-19442)
140.660	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3120	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.150	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	220.610	n	(P-19442) (P-19442) (P-19442)
140.662	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3200	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.200	r	(P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800) (P-7031; A-13800)	220.615	n	(P-19442) (P-19442) (P-19442)
140.663	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3240	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	146.225	re	(A-7651) (P-11999/89; A-4166) (P-11999/89; A-4166) (P-11999/89; A-4166)	220.620	n	(P-19442) (P-19442) (P-19442)
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140.665	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3440	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	147.15	am	(P-19653) (P-19653) (P-19653) (P-19653)	220.630	n	(P-19442) (P-19442) (P-19442)
140.666	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3520	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	147.25	am	(P-19653) (P-19653) (P-19653) (P-19653)	220.645	n	(P-19442) (P-19442) (P-19442)
140.667	am	(P-4415; O-16082; R-18623; A-18508) (E-4577; O-8226; R-9260)	141.3600	am	(P-12202; A-18015) (E-12278) (P-17665/89; A-3595) (P-2465; A-9464) (E-2657)	147.50	am	(P-19653) (P-19653) (P-19653) (P-19653)	220.650	n	(P-19442) (P-19442) (P-19442)
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